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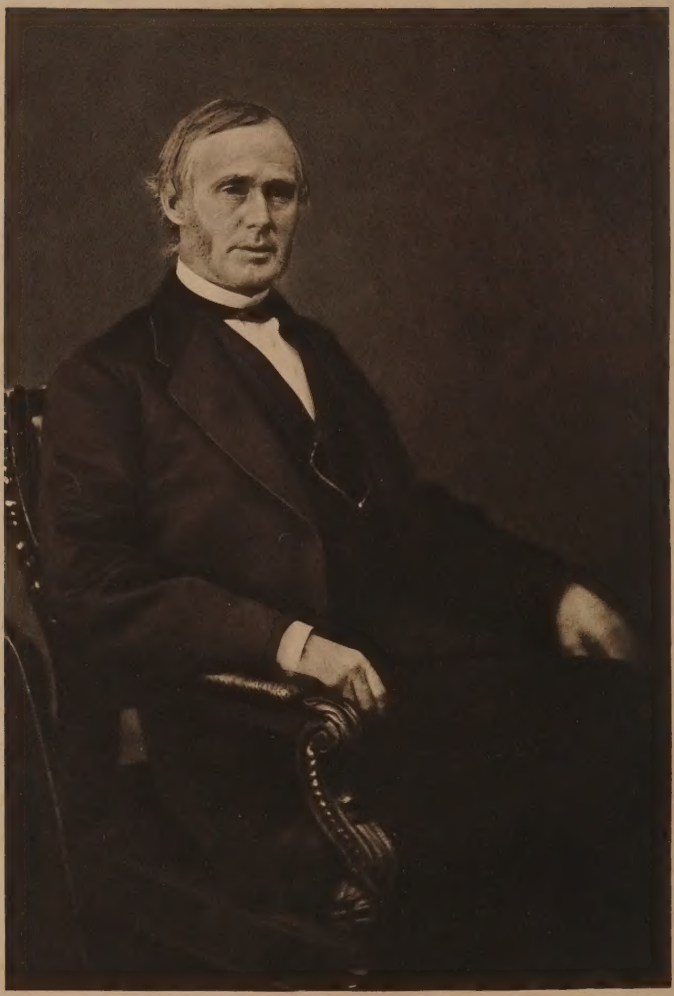

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AUTOBIOGRAPHY

OF SEVENTY YEARS

BY

GEORGE F. HOAR

WITH PORTRAITS

VOLUME II.

NEW YORK
CHARLES SCRIBNER'S SONS
1903

WITHDRAWN
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Published November, 1903.

PRESS OF
THE NEW ERA PRINTING COMPANY,
LANCASTER, PA.

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AUTOBIOGRAPHY OF SEVENTY YEARS

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CHAPTER I

ELECTION TO THE SENATE

I HAVE every reason to believe that my constituents in the Worcester district would have gladly continued me in the public service for ten years longer, if I had been so minded. I presided over the District Convention that nominated my successor. Before the convention was called to order the delegates crowded around me and urged me to reconsider my refusal to stand for another term, and declared they would gladly nominate me again. But I persisted in my refusal. I supposed then that my political career was ended. My home and my profession and my library had an infinite attraction for me. I had become thoroughly sick of Washington and politics and public life.

But the Republican Party in Massachusetts was having a death struggle with General Butler. That very able, adroit and ambitious man was attempting to organize the political forces of the State into a Butler party, and to make them the instrument of his ambitions. He had in some mysterious way got the ear of General Grant and the control of the political patronage of the State, so far as the United States offices were concerned. I had denounced him and his methods with all my might in a letter I had written to the people of Massachusetts, from which I have already made extracts. I had incurred his bitter personal enmity, and was regarded with perhaps one exception, that of my older brother Judge Hoar, as his most unrelenting opponent.

The people of Massachusetts were never an office-seeking people. There is no State in the Union whose representa-

tives at the seat of Government have less trouble in that way, or that gives less trouble to the Executive Departments or to the President. I have had that assurance from nearly every President since I have been in public life. And the people of Massachusetts have never concerned themselves very much as to who should hold the Executive offices, small or large, so that they were honestly and faithfully served, and that the man appointed was of good character and standing. The reform which took the civil service out of politics always found great favor in Massachusetts. But since General Butler, in some way never fully explained to the public, got the ear of the appointing power he seemed to be filling all the Departments at Washington with his adherents, especially the important places in the Treasury. The public indignation was deeply aroused. Men dreaded to read the morning papers lest they should see the announcement of the removal from the public service of some honest citizen, or brave soldier, who was filling the place of postmaster or marshal, or Custom House official, or clerk in a Department at Washington, and the putting in his place some unscrupulous follower of the fortunes of General Butler. The climax was reached when Butler's chief lieutenant, Simmons, was appointed Collector of the Port of Boston. Judge Russell, the old Collector, was an able and very popular man. He had given Butler a sort of half-hearted support. But he was incapable of lending himself to any base or unworthy purpose. He was compelled to vacate the office, much to his disgust. He accepted that of Minister to Venezuela, an unimportant foreign mission, and William A. Simmons was appointed in his place. The process of weeding out the Custom House then went on with great rapidity. Colonel Moulton, one of the bravest soldiers of the Civil War, who had been under rebel fire in a Charleston dungeon, and Colonel A. A. Sherman, a man with a marvellous military record, were removed to make way for men for whom, to say the least, the public had no respect. The order for their removal was recalled in consequence of a direct appeal to President Grant. Mr. Hartwell, the Treasurer, an excellent officer, who had gradu-

ated the first scholar at Harvard, was removed. Mrs. Chenoweth, a very accomplished lady, widow of one of the bravest officers of the Civil War, a member of Grant's staff, who was filling a clerical position at the Custom House, was notified of her removal. That also was arrested by a direct appeal to Grant. General Andrews, one of our best officers, afterwards professor at West Point, was dropped from the office of Marshal, and one of the adherents of Butler put in his place.

The indignation of the better class of Republicans was aroused. Before the appointment of Simmons, Mr. Boutwell had been elected Senator, and Mr. Richardson had succeeded him as Secretary of the Treasury. Mr. Boutwell was a favorite with the President. Mr. Sumner, then the senior Senator, was on the most unfriendly relations with the President, and had opposed his reelection to the best of his ability. It was not considered likely, under the custom then universally prevailing and indeed prevailing ever since, that President Grant would ever have made such an appointment without the entire approval of the Senator from the State interested, with whom he was on most friendly terms and who had served in his Cabinet as Secretary of the Treasury. Governor Boutwell was consulted about it, and gave it his approval, although it is understood that afterward, in obedience to the indignant feeling of the people, which was deeply excited, he voted against the confirmation of Simmons in the Senate. At the same time he informed his associates that he did not wish to have them understand that he requested them to vote against Simmons because of his opposition, or because of any so-called courtesy of the Senate. Simmons was the manager of Mr. Boutwell's campaign for reelection, and General Butler was his earnest supporter, giving him notice and urging him to repair at once to Boston when the movement against him became formidable.

I am quite sure that but for the determination of the people of Massachusetts not to endure Butler and Butlerism any longer, and probably but for the appointment of Simmons, I should never have been elected Senator. It is likely there

would have been no change in the office until this moment.

When I left home for Washington, at the beginning of the December session of Congress in 1876, the late Adin Thayer told me that some of the Republicans had got sick of Butler's rule, and they were determined to have a candidate for Senator who could be trusted to make zealous opposition to him and his methods, and that they proposed to use my name. I told him I did not believe they would be able to get twenty-five votes, that Mr. Boutwell, then Senator, was an able man, and that I did not think the fact even that he was understood to be a strong friend and ally of General Butler would induce the people to displace him. Mr. Thayer replied that at any rate there should be a protest.

I had no communication from any other human being upon the subject of my candidacy for the Senate, and made none to any human being, with one exception, until my election by the Legislature was announced. My oldest sister was fatally sick, and I received a letter every day giving an account of her condition. In a postscript to one letter from my brother, he made some slight allusion to the election for Senator then pending in the Massachusetts Legislature. But with that exception I never heard about it and had nothing to do with it.

I can truly say that I was as indifferent to the result, so far as it affected me personally, as to the question whether I should walk on one side of the street or the other. I did not undervalue the great honor of representing Massachusetts in the Senate of the United States. But I had an infinite longing for my home and my profession and my library. I never found public employment pleasant or congenial. But the fates sent me to the Senate and have kept me there until I am now the man longest in continuous legislative service in this country, and have served in the United States Senate longer than any other man who ever represented Massachusetts.

The last three times I have been elected to the Senate I have had, I believe, every Republican vote of the Legislature, and I was assured—of course I cannot speak with

much confidence of such a matter—that I could have all the Democratic votes, if necessary. I state these things with a feeling of natural pride. But I do not attribute it to any special merit of mine. It has been the custom of Massachusetts to continue her Senators in public life so long as they were willing, and were in general accord with the political opinion of the majority of the people.

I have, however, owed very much indeed to the moderation and kindness of the eminent gentlemen who might have been most formidable competitors, if they had thought fit. Just before the election of 1883, when all the discontented elements were seeking a candidate, General Francis A. Walker, one of the ablest men ever born on the soil so productive of good and able men, was proposed as my competitor. He would have had a great support. I think he would have liked the service, for which he was so eminently fitted. He had been my pupil, and had gone from my office to the War. He came out promptly in a letter in which he declared that in his judgment Mr. Hoar was the fittest person in the Commonwealth for the office of Senator. Governor Long was my Republican competitor in 1883. But on two or three occasions since, when he was proposed in many quarters for the office of Senator, he promptly refused to have his name submitted to the Legislature, and declared himself for me. He is a man of brilliant ability, and a great favorite with the people of the Commonwealth. General William F. Draper, lately Ambassador to Italy, a most distinguished soldier, a business man of great sagacity and success, having inherited from his father a right to the regard of the people—a regard which has been extended not only to him, but also to his very able and excellent brothers—more than once when there has been an election of Senator, has been proposed in many quarters. He has promptly, both in letter and in public interviews, rejected the suggestion, finally with impatience that he was put to the trouble of repeating himself in the matter so often.

I think that in any other State than Massachusetts, and even there, without the great kindness and moderation of

these gentlemen, my tenure of office, which will have continued for thirty-eight years, if my life be spared, would have been much shorter.

Mr. Sumner was in general accord with the Republicans of Massachusetts on important questions in issue in his time. But he bitterly and savagely attacked President Grant at the height of his popularity, and did his best to defeat him for reelection. He allowed his name to be used as candidate for Governor, against Governor Washburn. The defeat of Grant would, of course, have caused that of Henry Wilson, candidate for the Vice-Presidency. Still I have little doubt that if Mr. Sumner had lived, he would have been reelected to the Senate without any very formidable opposition.

CHAPTER II

PRESIDENT HAYES

President Hayes's Administration began under circumstances of peculiar difficulty. In the first Congress of his term the Democrats had a majority in the House. They had refused to pass the Army Appropriation Bill the winter before and would not consent to such a bill in the following winter without a condition that no military force should be used to maintain order at elections, or to keep in power state governments obnoxious to them. But his worst foes were of his own household. There were two factions among the Republicans, one led by Mr. Blaine and the other by Conkling and Cameron. Blaine and Conkling had been disappointed aspirants for the Presidency. Mr. Hayes and his advisers were in favor of what was called reform in the civil service and utterly rejected the claim of Senators and Representatives to dictate nominations to executive and judicial offices. With the exception of Stanley Matthews of Ohio and my colleague, Mr. Dawes, I was, I believe, the only cordial supporter of the President in the Senate.

Mr. Blaine was disposed, I think, in the beginning, to give the President his support. But he was rendered exceedingly indignant by the refusal of President Hayes to appoint Mr. Frye to a seat in the Cabinet, which Mr. Blaine desired, as it would smooth the way of Mr. Eugene Hale, his most intimate friend, and strongest supporter, to succeed Mr. Hamlin in the Senate. President Hayes was willing to appoint Mr. Hale to a Cabinet office. But Mr. Hale, I think very wisely, declined the overture, as he had before declined the tender of a seat in the Cabinet from President Grant. He would have made an excellent Cabinet officer. But he was specially fitted for the more agreeable and per-

manent public service of Senator. I do not know what occasioned President Hayes's reluctance to comply with Mr. Blaine's desire. But it was a fortunate decision for Mr. Frye. If he had gone into the Cabinet, in all likelihood the people of Maine would have chosen another Senator when Mr. Blaine became Secretary of State under Garfield in 1881, and according to the habit of the people of that State would have continued him in their service. So Mr. Frye's brilliant and useful career in the Senate would have been wanting to the history of the Republic.

I had myself something to do with the selection of the Cabinet. I had been a member of the Convention held at Cincinnati that had nominated President Hayes. The Massachusetts delegation had turned the scale between him and Blaine. Their votes gave him the slender majority to which he owed his nomination. I had also been a member of the Electoral Commission to which the contest between him and Tilden had been submitted and I had been on the committee that framed the bill under which that Commission was created. I had voted with the Democrats of the House to support that bill against the judgment of a large majority of the Republicans. I agreed with President Hayes in the matter of a reform in the civil service and in his desire to free the Executive power from the trammel of senatorial dictation.

I had formed a strong friendship with Mr. McCrary in the House of Representatives and had earnestly commended him to the President for appointment to the office of Attorney-General. I did not expect to make any other recommendation. There had been an unfortunate estrangement between the Republicans of Massachusetts and of Maine by reason of the refusal of the Massachusetts delegation to support Mr. Blaine for the Presidency. I thought it desirable for the interest of the Republican Party that that breach should be healed and especially desirable that the incoming administration, so beset with difficulty, should have the powerful support of Mr. Blaine and of those Republicans of whom he was the leader and favorite. So I thought it best that he should be consulted in the mat-

ter of the selection of a Cabinet officer from New England and that I should keep aloof.

But the day after President Hayes's inauguration, rather late in the afternoon, Mr. Blaine came into the Senate Chamber and told me with some appearance of excitement that he thought the President wanted to see the Massachusetts Senators. I did not, however, act upon that message, and did not go to the White House that day. I was at my room in the evening when Senator Morrill of Vermont came and told me that President Hayes wished him to inquire of me what Massachusetts man I desired to have appointed to a place in the Cabinet. I told Mr. Morrill that there were two gentlemen of great capacity and high character, either of whom would make an excellent Cabinet officer. One of them was William B. Washburn, and the other Alexander H. Rice. Each of them had held the office of Governor of the Commonwealth, and each of them had been a very eminent member of the House of Representatives. But I said that each belonged to what might be called a separate faction or division in the Republican Party, and the appointment of either would be distasteful to some of the supporters of the other. I added that there was one man of whom I thought very highly indeed, an intimate friend of mine, whose appointment I thought would give pleasure to everybody in Massachusetts. That was General Charles Devens, then Judge of the Supreme Court, a very eminent advocate and orator, and one of the most distinguished soldiers the State had sent into the war.

Mr. Morrill went back to the President with the message. Early the next morning I received notice from the White House that the President wished to see me. I complied with his desire at once. Mr. Dawes had also been sent for and was there. The President said he could offer General Devens the Department of War, or perhaps the Navy. Mr. Dawes thought that he would not be willing to accept the latter. I told the President that I thought he would; that General Devens was a native of Charlestown. He had always taken great interest in the Navy. He had known a great many of the old and famous naval officers, and some

of his near relatives had been in that service. But the President finally authorized me to send a telegram to General Devens offering him the Department of War. I sent the telegram and requested Devens to come at once to Washington, which he did. At the same time, the President stated his purpose to offer Mr. McCrary the Department of Justice. In the course of the day, however, it was reported to the President that Mr. McCrary had formed a decided opinion in favor of the McGarrahan claim, a claim which affected large and valuable mining properties in California. Most persons who had investigated the claim believed it to be utterly fraudulent. There were many persons of great influence who were interested in the mining property affected. They strongly appealed to the President not to place in the office of Attorney-General a man who was committed in favor of the claim. The President then asked me if I thought General Devens would be willing to accept the office of Attorney-General, and exchange it for that of Secretary of War later, when the McGarrahan claim had been disposed of so far as Executive action was concerned. I told the President that I thought he would. When General Devens arrived I stated the case to him. He said he should be unwilling to agree to such an arrangement. He would be willing to accept the office in the beginning, but if he were to give up the office of Attorney-General after having once undertaken it, he might be thought to have failed to discharge his duties to the satisfaction of the President, or that of the public. He was unwilling to take that risk.

So the President determined to offer the Department of Justice to General Devens, and the Department of War to Mr. McCrary, a good deal to the disappointment of the latter. All McCrary's ambitions in life were connected with his profession. He took the first opportunity to leave the Executive Department for a judicial career.

The other members of the Cabinet were: William M. Evarts, Secretary of State; John Sherman, Secretary of the Treasury; Carl Schurz, Secretary of the Interior; David

M. Key, Postmaster-General; Richard M. Thompson, of Indiana, Secretary of the Navy.

President Hayes was a simple-hearted, sincere, strong and wise man. He is the only President of the United States who promised, when he was a candidate for office, not to be a candidate again, who kept his pledge. He carried out the principles of Civil Service Reform more faithfully than any other President before or since down to the accession of President Roosevelt. General Grant in his "Memoirs" praises the soldierly quality of President Hayes very highly. He was made Brigadier-General on the recommendation of Sheridan, and brevetted Major-General for gallant and distinguished services. He wrote, after the Presidential election, to John Sherman, as follows: "You feel, I am sure, as I do about this whole business. A fair election would have given us about forty electoral votes at the South, at least that many; but we must not allow our friends to defeat one outrage by another. There must be nothing curved on our part. Let Mr. Tilden have the place by violence, intimidation and fraud rather than undertake to prevent it by means that will not bear the severest scrutiny."

He upheld the good faith of the nation in his veto of the bill to authorize the coinage of the silver dollar of 412½ grains, and to restore its legal tender character in 1878; and in his veto of the bill violating our treaty with China. He grew steadily in public favor with all parties, and with all parts of the country, as his Administration went on. Under his Administration the resumption of specie payments was accomplished; and, in spite of the great difficulties caused by the factional opposition in his own party, he handed down his office to a Republican successor.

The weakness and folly of the charge against the decision of the Electoral Commission, that it was unconstitutional or fraudulent, and the fact that the American people were never impressed by those charges, is shown by the fact that General Garfield, one of the majority who gave that decision, was elected to succeed President Hayes, and that six of the eight members of that majority, now dead, maintained,

every one of them, throughout their honored and useful lives, the respect and affection of their countrymen, without distinction of party. Certainly there can be found among the great men of that great generation no more pure and brilliant lights than Samuel F. Miller, William Strong, Joseph P. Bradley, Frederick T. Frelinghuysen, Oliver P. Morton and James A. Garfield. There are two survivors of that majority, Mr. Edmunds and myself. Neither has found that the respect in which his countrymen held him has been diminished by that decision.

President Hayes has been accused of abandoning the reconstruction policy of his party. It has also been said that he showed a want of courage in failing to support the Republican State Governments in Louisiana and South Carolina; that if the votes of those States were cast for him they were cast for Packard and Chamberlain at the elections for Governor held the same day, and that he should have declined the Presidency, or have maintained these Governors in place. But these charges are, at the least, inconsiderate, not to say ignorant. It ought to be said also that President Grant before he left office had determined to do in regard to these State Governments exactly what Hayes afterward did, and that Hayes acted with his full approval. Second, I have the authority of President Garfield for saying that Mr. Blaine had come to the same conclusion. The Monday morning after the electoral count had been completed and the result declared, Blaine had a long talk with Garfield, which Garfield reported to me. He told him that he had made up his mind, if he had been elected, to offer the office of Secretary of State to Mr. Evarts, or, if anything prevented that, to Judge Hoar. He further said that he thought it was time to discontinue maintaining Republican State Governments in office by the National power and that the people of the Southern States must settle their State elections for themselves. Mr. Blaine by his disappointment in the formation of President Hayes's Cabinet was induced to make an attack on him which seems inconsistent with this declaration. But Mr. Blaine soon abandoned this ground, and, so far as I now remember, never

afterward advocated interference with the control of the Southern States by National authority. It seems to me that President Hayes did only what his duty under the Constitution peremptorily demanded of him. I entirely approved his conduct at the time, and, so far as I know and believe, he agreed exactly with the doctrine on which I always myself acted before and since. The power and duty of the President are conferred and limited by the Constitution. The Constitution requires that no appropriation shall be made for the support of the Army for more than two years. In practice the appropriation is never for more than one year. That is for the express purpose, I have always believed, of giving to Congress, especially to the House of Representatives, which must inaugurate all appropriation bills, absolute control over the use of the Army, and the power to determine for what purposes the military power shall be used. At the session before President Hayes's inauguration the Democratic House of Representatives had refused to pass an Army Bill. The House refused to pass an Army Bill the next year, except on condition that the soldiers should not be used to support the State Government.

It became necessary to call a special session of Congress in October, 1877, by reason of the failure of the Army Appropriation Bill the winter before. The first chapter of the Statutes of that session, being an act making appropriations for the support of the Army for the fiscal year ending June 30, 1878, and for other purposes, enacts "that none of the money hereby appropriated shall be expended, directly or indirectly, for any use not strictly necessary for, and directly connected with, the military service of the Government; and this restriction shall apply to the use of public animals, forage, and vehicles."

It was, therefore, President Hayes's Constitutional duty, in my judgment, to desist from using the military power of the Government on the 30th day of June, 1877, when the fiscal year expired for which there was an appropriation for the support of the Army. In fact he removed the troops a little earlier. But he received assurances from the

Democratic leaders—whether they were made good I will not now undertake to inquire—that there should be no unlawful force on their part after the removal of the troops. Mr. Hayes was right and wise in securing this stipulation, if he could, by freeing these communities from military grasp a few weeks before he would have been compelled to do it at any rate. Obedience to this clear mandate of Constitutional duty was not in the least inconsistent with a faithful and vigorous use of all the other powers which were lodged in his hands by the Constitution for securing the rights of the colored people, or the purity and integrity of National elections. It is true that substantially the same vote elected Packard of Louisiana as that which chose the Hayes electors. But the authority to declare who is the President lawfully chosen, and the Constitutional power to maintain the Governor in his seat by force are lodged in very different hands. The latter can only be used by the National Executive under the circumstances specially described in the Constitution, and it can never be used by him for any considerable period of time contrary to the will of Congress, and without powers put in his hands by legislation which must originate in the body which represents the people.

The infinite sweetness and tact of his wife contributed greatly to the success of the Administration of President Hayes. She was a woman of great personal beauty. Her kindness of heart knew no difference between the most illustrious and the humblest of her guests. She accomplished what would have been impossible to most women, the maintenance of a gracious and delightful hospitality while strictly adhering to her principles of total abstinence, and rigorously excluding all wines and intoxicating liquors from the White House during her administration. The old wine drinkers of Washington did not take to the innovation very kindly. But they had to console themselves with a few jests or a little grumbling. The caterer or chef in charge of the State dinners took compassion on the infirmity of our nature so far as to invent for one of the courses which came about midway of the State dinner, a

box made of the frozen skin of an orange. When it was opened you found instead of the orange a punch or sherbet into which as much rum was crowded as it could contain without being altogether liquid. This was known as the life-saving station.

Somebody who met Mr. Evarts just after he had been at a dinner at the White House asked him how it went off. "Excellently," was the reply, "the water flowed like champagne."

CHAPTER III

CABINET OF PRESIDENT HAYES

There has hardly been a stronger Cabinet since Washington than that of President Hayes. Its members worked together in great harmony. All of them, I believe, were thoroughly devoted to the success of the Administration.

The Secretary of State was William M. Evarts. He was my near kinsman and intimate friend. His father died in his early youth. My father was Mr. Evarts's executor, and the son, after his mother broke up housekeeping, came to my father's house in his college vacations as to a home. He studied law at the Harvard Law School, and with Daniel Lord, a very eminent lawyer in New York. One of his early triumphs was his opening of the celebrated Monroe-Edwards case. The eminent counsel to whom the duty had been assigned being prevented from attendance by some accident, Evarts was unexpectedly called upon to take his place. He opened the case with so much eloquence that the audience in the crowded court-room gave him three cheers when he got through.

He rose rapidly to a distinguished place in his profession, and before he died was, I suppose, the foremost advocate in the world, whether in this country or Europe. He was counsel for President Johnson on his impeachment; counsel for the Republican side in support of the title of President Hayes before the Electoral Commission; counsel for the United States against Great Britain before the Tribunal at Geneva. He was counsel in the celebrated Lemon case, where the case was settled as to the rights of slave owners to bring their slaves into the free States, and hold them *in transitu*. In all these he was successful. He was counsel also in another trial of almost equal interest and celebrity, the Tilton divorce suit—in which Henry Ward

Beecher was charged with adultery. In this the jury disagreed. But the substantial victory was with Evarts's client.

Mr. Evarts was a man of unfailing equanimity and good nature, never thrown off his balance by any exigency in diplomacy, in political affairs, or in the trial of causes. Any person who has occasion to follow him in his diplomatic discussions will be impressed with the far-sighted wisdom and caution with which he took his positions.

He was always a delightful orator. He rose sometimes to a very lofty eloquence, as witness especially his argument in defence of President Johnson. He had an unfailing wit. You could never challenge him or provoke him to an encounter without making an abundant and sparkling stream gush forth. He never came off second best in an encounter of wits with any man. He was a man of great generosity, full of sympathy, charity, and kindliness. If his biography shall ever be properly written, it will be as delightful as that of Sheridan or Sidney Smith for its wit, and will be valuable for the narrative of the great public transactions in which he took a part. Especially it will preserve to posterity the portraiture of a great lawyer and advocate of the time before the days of specialists, when the leaders of the American Bar were great lawyers and advocates.

I do not think Evarts's capacity as a diplomatist is known. Perhaps it never will be thoroughly understood. The work of a Secretary of State in dealing with foreign countries is performed in the highest confidence and does not ordinarily come to light until interest in the transaction to which it relates has grown cold. Evarts conducted some very delicate negotiations, including that in regard to the Fortune's Bay matter, with much skill. He was careful never, for the sake of present success, to commit the country to any doctrine which might be inconvenient in the remote future.

I think Evarts failed to appreciate his own political strength. He was in the early part of his life devoted to Mr. Webster, for whom he had great reverence, and later

to Mr. Seward. He sometimes, I think, failed to take wholly serious views of political conditions, so far as they affected him personally. I do not think he ever knew the hold he had upon the respect of the country, or upon the affection of the men with whom he was brought into intimate association in public life, and at the Bar. He was very fond of his friends, classmates and kindred, and of his college.

After the defeat of the Republican Party in 1884 he was chosen Senator from the State of New York. He had been candidate for the Senate in 1861, to succeed Mr. Seward. His competitor was Horace Greeley. Some of Mr. Evarts's friends thought that the old supporters of Mr. Seward, and perhaps Mr. Seward himself, did not stand by him as his unfailing and powerful support of Seward would have led men to expect. But when he came into public life in 1885, and took his seat as a Senator from the great State of New York, men looked to him to be the great leader in restoring the broken ranks of the Republican Party. I think it would have been easy to make him the Republican candidate, and to elect him to the Presidency in 1888, if he had been willing to take that position himself. But he did not in the Senate, or in the counsels of the party, take or attempt to take the leadership for which he was fitted.

He was invited in the spring or early summer of 1885 to address a political club in Boston. The whole country listened eagerly to see what counsel the great Senator and the great Constitutional lawyer, and great orator, had to give to his party associates and to the people in that momentous time. But he contented himself with making a bright and witty speech. The club was known as the Middlesex Club, though it had its meetings in Boston. He gave a humorous description of the feelings of the Middlesex man when he went over to Boston, and those of the Boston man when he went over to Middlesex; and told one or two stories of his early days in Boston, where he was born. That was all. I felt as I listened as though a pail of ice-water had been poured down my spine.

But modesty and disinterestedness are qualities that are so infrequent among public men that we may well pardon this bright and delightful genius for that fault.

In the last years of his service in the Senate he had a very serious affliction of the eyes, which rendered it impossible for him to use them for reading or study, or to recognize by sight any but the most familiar human figures. He bore the calamity with unfailing cheerfulness. I believe it was caused by overwork in the preparation of a case. The first I knew of it, he asked me to meet him at Concord, where he was about to make a visit. He told me what had happened, and that his physicians in Washington and New York thought there was a possibility that the congestion of the veins surrounding the optic nerve might be absorbed. But they thought the case very doubtful, and advised him to go to Europe for the benefit of the journey, and for the possible advantage of advice there. He wanted me to undertake the duties devolving on him in the Committee of which he was Chairman, and to attend to some other public matters in his absence. His physician in Paris told him there was not the slightest hope. He thought that the darkness would certainly, though gradually, shut down upon him. He received this sentence with composure. But he said that he had long wished to see Raphael's famous Virgin at Dresden, and that he would go to Dresden to see it before the night set in. This he did. So the faces of the beautiful Virgin and the awful children were, I have no doubt, a great consolation to him in his darkened hours.

John Sherman was Secretary of the Treasury. I sat next to him in the Senate for several years. I came to know him quite intimately. I suppose few men knew him more intimately, although I fancy he did not give his inmost confidence to anybody, unless to his brother the General, or to a few persons of his own family or household. I paid the following tribute to him the day after his death:

"It is rarely more than once or twice in a generation that a great figure passes from the earth who seems the very

embodiment of the character and temper of his time. Such men are not always those who have held the highest places or been famous for great genius or even enjoyed great popularity. They rather are men who represent the limitations as well as the accomplishments of the people around them. They know what the people will bear. They utter the best thought which their countrymen in their time are able to reach. They are by no means mere thermometers. They do not rise and fall with the temperature about them. But they are powerful and prevailing forces, with a sound judgment and practical common sense that understands just how high the people can be lifted, and where the man who is looking not chiefly at the future but largely to see what is the best thing that can be done in the present should desist from unavailing effort. Such a man was John Sherman, for whom the open grave is now waiting at Mansfield. For nearly fifty years he has been a conspicuous figure and a great leader in the party which has controlled the Government. Of course, in a republic it can be claimed for no man that he controlled the course of history. And also, of course, it is not possible while the events are fresh to assign to any one man accurately his due share in the credit for what is done, especially in legislative bodies, where matters are settled in secret council often before the debate begins and almost always before the vote is taken.

"But there are some things we can say of Mr. Sherman without fear of challenge now and without fear of any record that may hereafter leap to light.

"He filled always the highest places. He sat at the seat of power. His countrymen always listened for his voice and frequently listened for his voice more eagerly than for that of any other man. He became a Republican leader almost immediately after he took his seat in the House of Representatives in 1855. He was candidate for Speaker before the war, at the time when the Republican Party achieved its first distinct and unequivocal national success, unless we except the election of General Banks, who had himself been elected partly by Know-Nothing votes. Mr. Sherman failed of an election. But the contest left him

the single preeminent figure in the House of Representatives—a preeminence which he maintained in his long service in the Senate, in the Treasury, and down to within a few years of his death. .

"He was a man of inflexible honesty, inflexible courage, inflexible love of country. He was never a man of great eloquence, or greatly marked by that indefinable quality called genius. But in him sound judgment and common sense, better than genius, better than eloquence, always prevailed, and sometimes seemed to rise to sublimity which genius never attains. His inflexible courage and his clear vision manifested themselves in the very darkest period of our history, when hope seemed at times to have gone out in every other heart. There is a letter in his Memoirs, written April 12, 1861, which, as I remember the gloom and blackness of that time, seems to me one of the sublimest utterances in our history. The letter was written to his brother William, afterward the General, who had been offered a place in the War Department, which Mr. Chase urged him to accept, saying that he would be virtually Secretary of War. The offer must have been a dazzling temptation to the young soldier who had left his profession and was engaged in civil duties as an instructor, I think, in a college somewhere. But John earnestly dissuades his brother from accepting it, urges him to take a position in the field, and foretells his great military success. He then adds the following prediction as to the future of the country. It was written at midnight at the darkest single hour of our history:

" 'Let me now record a prediction. Whatever you may think of the signs of the times, the Government will rise from the strife greater, stronger and more prosperous than ever. It will display every energy and military power. The men who have confidence in it, and do their full duty by it, may reap whatever there is of honor and profit in public life, while those who look on merely as spectators in the storm will fail to discharge the highest duty of a citizen, and suffer accordingly in public estimation.'

"Mr. Sherman's great fame and the title to his countrymen's remembrance which will most distinguish him from other men of his time, will rest upon his service as a financier. He bowed a little to the popular storm in the time of fiat money. Perhaps if he had not bowed a little he would have been uprooted, and the party which would have paid our national debt in fiat money would have succeeded. But ever since that time he has been an oak and not a willow. The resumption of specie payments and the establishment of the gold standard, the two great financial achievements of our time, are largely due to his powerful, persistent and most effective advocacy.

"It is a little singular that two great measures that are called by his name are measures, one of which he disapproved, and with the other of which he had nothing to do. I mean the bill for the purchase of silver, known as the Sherman Law, and the bill in regard to trusts, known as the Sherman Anti-Trust Law. The former was adopted against his protest, by a committee of conference, although he gave it a reluctant and disgusted support at the end. It was, in my judgment, necessary to save the credit of the country at the time, and a great improvement on the law it supplanted.

"The other, known as the Sherman Anti-Trust Bill, I suppose he introduced by request. I doubt very much whether he read it. If he did, I do not think he ever understood it. It was totally reconstructed in the Judiciary Committee."

Mr. Sherman was delightful company. He had a fund of pleasant anecdote always coming up fresh and full of interest from the stores of long experience.

He was wise, brave, strong, patriotic, honest, faithful, simple-hearted, sincere. He had little fondness for trifling and little sense of humor. Many good stories are told of his serious expostulation with persons who had made some jesting statement in his hearing which he received with immense gravity. I am ashamed to confess that I used to play upon this trait of his after a fashion which I think annoyed him a little, and which he must have regarded as exceedingly frivolous.

He used occasionally to ask me to go to ride with him. One hot summer afternoon Mr. Sherman said: "Let us go over and see the new electric railroad," to which I agreed. That was then a great curiosity. It was perhaps the first street railroad, certainly the first one in Washington which had electricity for its motive power. Mr. Sherman told his driver to be careful. He said the horses were very much terrified by the electric cars. I said: "I suppose they are like the labor reformers. They see contrivances for doing without their labor, and they get very angry and manifest displeasure." Mr. Sherman pondered for a moment or two, and then said with great seriousness: "Mr. Hoar, the horse is a very intelligent animal, but it really does not seem to me that he can reason as far as that." I told the General of it afterward, who was full of fun, and asked him if he really believed his brother thought I made that remark seriously; to which he replied that he had no doubt of it; that John never had the slightest conception of a jest.

At another time, one very hot summer day, Mr. Sherman said: "Hoar, I think I shall go take a ride; I am rather tired. When a vote comes up, will you announce that I am paired with my colleague?" I called out to Senator Rollins of New Hampshire, who sat a little way off, and who kept the record of pairs for the Republican side: "Rollins, there will be no vote this afternoon, except one on a funeral resolution in honor of Mr. Allen of Missouri. Will you kindly announce that Mr. Sherman is paired with his colleague?" Mr. Sherman got up in great haste and went over to Mr. Rollins, and said: "Mr. Rollins, Mr. Hoar entirely misunderstood me. I never should think of announcing a pair on a funeral resolution."

Mr. Sherman was not an eloquent man, except on some few occasions, when his simple statement without ornament or passion rose to the highest eloquence by reason of the impressiveness of his fact or of his reasoning. His memory failed in his last years, and the effect of age on his other faculties became apparent when he undertook to deal with new and complicated subjects. But he was clear to the last when his great subject of finance was under con-

sideration. One of the most admirable examples of his power, also one of the most admirable examples of American campaign speaking, is his statement of the financial issue between the two parties at the beginning of the campaign of 1896. It struck the key-note. The other Republican speakers only followed it.

He took great satisfaction in his New England ancestry. He frequently spoke with great pleasure of a visit made by him and the General, some twelve or fifteen years ago, I think, to Woodbury, Connecticut, where his ancestors dwelt. He took a special pride in the character of his father, one of the Ohio pioneers, from whom, I judge from his account, both his illustrious sons derived in large measure their sterling quality. He was a far-away kinsman of my own, a relationship of which it may well be believed I am highly proud, and of which both General Sherman and Senator Sherman were kind enough frequently to speak.

For me his death ended an intimate friendship of nearly twenty-five years, during many of which we sat side by side in the Senate Chamber and enjoyed much unreserved social intercourse in long rides and walks. Among the great characters which America has given to mankind these two famous brothers, so different, yet so like in their earnest love of country, their independence and courage, their devotion to duty, will ever hold a high place.

George W. McCrary had been an eminent member of the House of Representatives, where he had the confidence of both parties. He was a protégé of Judge Miller, with whom he studied law. His chief ambition, however, was for judicial service. He was much disappointed when it was found desirable that he should take the Department of War instead of the Department of Justice to which President Hayes originally intended to invite him. He very gladly accepted the offer of a seat on the Bench of the United States Circuit Court. He filled that office with great credit, and it is highly probable would have been promoted to the Supreme Court of the United States, but for his untimely death.

He was the originator of the method of solution of the dispute as to the title to the Presidency in 1876. It ought to be said, however, that it was done in full consultation with Mr. Blaine. I was then quite intimate with both of them, and a member of the Committee in the House who reported the plan. On the seventh day of December, 1876, at the beginning of the winter session, after the election, Mr. McCrary offered the following resolution. It was adopted.

"Whereas there are differences of opinion as to the proper mode of counting the electoral votes for President and Vice-President and as to the manner of determining questions that may arise as to the legality and validity of returns made of such votes by the several States;

"And whereas it is of the utmost importance that all differences of opinion and all doubt and uncertainty upon these questions should be removed, to the end that the votes may be counted and the result declared by a tribunal whose authority none can question and whose decision all will accept as final: Therefore,

"Resolved, That a committee of five members of this House be appointed by the Speaker, to act in conjunction with any similar committee that may be appointed by the Senate, to prepare and report without delay such a measure, either legislative or constitutional, as may in their judgment be best calculated to accomplish the desired end, and that said committee have leave to report at any time."

I do not know that a sketch of Richard W. Thompson, or Dick Thompson, as he was familiarly and affectionately called, properly finds a place in my autobiography. I knew him very slightly. I dare say I visited the Navy Department in his time. But I have now no recollection of it. I had a great respect for him. He lived in the lifetime of every President of the United States, except Washington, and I believe saw every one of them, except Washington, unless it may be that he never saw Theodore Roosevelt. He was a very interesting character, a man of great common sense, public spirit, with a wonderful memory, and a

rare fund of knowledge of the political history of the Northwest. Indeed he was an embodiment of the best quality of the people of the Ohio Territory, although born in Virginia. His great capacity was that of a politician. He made excellent stump speeches, managed political conventions with great shrewdness, and also with great integrity, and had great skill in constructing platforms. Colonel Thompson was a very valuable political adviser. It has never been the custom to select Secretaries of the Navy on account of any previously acquired knowledge of naval affairs, although the two heads of that Department appointed by Presidents McKinley and Roosevelt have conducted it with wonderful success in a very difficult time. A day or two after the Inauguration, John Sherman, the new Secretary of the Treasury, gave a very brilliant dinner party to the Cabinet, at which I was a guest. The table was ornamented by a beautiful man-of-war made out of flowers. Just before the guests sat down to dinner a little adopted daughter of Secretary Sherman's attached a pretty American flag to one of the masts. Somebody called attention to the beauty of the little ornament. I asked Secretary Thompson across the table to which mast of a man-of-war the American flag should be attached. Thompson coughed and stammered a little, and said: "I think I shall refer that question to the Attorney-General."

David M. Key was appointed Postmaster-General in furtherance of President Hayes's desire, in the accomplishment of which he was eminently successful, to promote harmony between the sections, and to diminish, so far as possible, the heat of party feeling which had blazed so intensely at the time of his election. Mr. Key was a Democrat, and never, I believe, certainly not during President Hayes's Administration, abandoned his allegiance to the Democratic Party. He had been a member of the Senate from Tennessee, and Lieutenant-Colonel in the Confederate Army. His appointment was a popular one. Mr. Key administered the affairs of the Department very satisfactorily, in which he was aided very much by his Assistant

Postmaster-General, Mr. Tyner, who had been an eminent member of the House, to whom, I suppose, he left the matter of appointments to office.

Carl Schurz was a very interesting character. When I entered the House he was a member of the Senate from the State of Missouri. He was admirably equipped for public service. Although a native of Germany, he had a most excellent, copious and clear English style. No man in either House of Congress equalled him in that respect. He was a clear reasoner, and not lacking on fit occasion in a stirring eloquence. He had rendered great service to the country. The value to the Union cause of the stanch support of the Germans in the Northwest, including Missouri, whose principal city, St. Louis, contained a large German population, can hardly be over-estimated. Without it Missouri would have passed an ordinance of secession, and the city would have been held by the Confederates from the beginning of the war. To prevent this the patriotism and influence of Carl Schurz, then very powerful with his German fellow-citizens, largely contributed. He also combated with great power the dangerous heresy of fiat money and an irredeemable currency. He was a stanch advocate of civil service reform, although he left Congress before the legislation which accomplished that was adopted. So he will be entitled to a high place in the history of the very stormy time in which he has lived, and to the gratitude of his countrymen.

But he seems to me to have erred in underrating the value of party instrumentalities and of official power in accomplishing what is best for the good of the people. When his Republican associates committed what he thought some grave errors, he helped turn Missouri over to the Democrats, who have held it ever since. So the political power of the State since Mr. Schurz abandoned the Republican Party because of his personal objection to President Grant, has been exerted against everything Mr. Schurz valued—honest elections, sound money, security to the enfranchised Southern men, and the Constitutional rights

which Mr. Schurz helped gain for them. He has never seemed to care for organization, still less to be influenced by that attachment to organization which, while sometimes leading to great evil, has been the source of inspiration of nearly everything that has been accomplished for good in this world.

Mr. Blaine says of him, with some exaggeration, but with some truth, that he has not become rooted and grounded anywhere, has never established a home, and is not identified with any community.

So the influence of Mr. Schurz has only been to contribute some powerful arguments to the cause which he espoused, and never, certainly for a great many years, that of a leader. Mr. Schurz's arguments for the last thirty years would have been as effective if published anonymously, and I dare say more effective than they have been when given to the world under his name.

Mr. Blaine says of him that he has not the power of speaking extempore; that he requires careful and studious preparation, and is never ready, off-hand, to shoot on the wing. I do not agree with Mr. Blaine's estimate of Mr. Schurz in that particular. I have heard him make very effective speeches in the Senate, and elsewhere, that were undoubtedly extemporary. Mr. Blaine says that Mr. Schurz is so deficient in this respect that he has been known to use manuscript for an after-dinner response. But that has been done, not infrequently, by persons who have first-rate capacity for extemporary speaking, but who desire to say something to a number of persons much greater than those who sit about the tables, who are eager to read what they say. That should be carefully matured both in thought and phrase, and should convey their meaning with more precision than off-hand speaking is likely to attain, and be reported with more accuracy than off-hand speaking is likely to set.

I have never been intimate with Mr. Schurz. I deeply lamented his action in supporting Mr. Cleveland, and contributing what was in his power to the defeat of the Republican Party on two occasions—a defeat which brought

so much calamity to the Republic. I have thought that in his dislikes and severe judgment of individuals he lost sight of great principles. His independence of his own party led him to support a very much worse party domination, and to help to accomplish measures and establish principles to which he had been all his life utterly opposed. But the services to which I have alluded should not be forgotten. They entitle him to the highest respect, and should far outweigh his faults and mistakes.

Mr. Schurz made one very unfortunate mistake quite early in the course of his administration of the Interior Department. He had formed the opinion, I suppose without much practical experience in such matters, that it would be a good plan to get the civilized Indians of the country into the Indian Territory. Accordingly he had issued an order for the removal of the Ponca Indians, of Nebraska, to the Indian Territory. The Poncas were a small tribe, living on excellent lands, to which they were exceedingly attached. They were a peaceful people. It was their boast that no Ponca had ever injured a white man. Mr. Schurz had been informed that the Poncas were willing to go. But when they heard of the scheme, they strenuously objected. They sold their ponies to enable an agent to go to Washington to make their protest known. But Mr. Schurz was immovable. The Nebraska Senators waited upon him, but their expostulations were received with disdain, as the counsel of politicians who were not entitled to much respect. The removal was effected. The Indian Territory proved unhealthy for them. A part of the tribe made their escape, took the coffins of those who had died with them, and made their way back to the original home of their ancestors.

The public feeling was deeply aroused. I happened to be at home in Worcester when a meeting was called by clergymen and other philanthropic gentlemen. It was addressed by a young Indian woman, named Bright Eyes, who belonged, I think, to a tribe closely allied to the Poncas. I attended the meeting, but was careful not to commit myself to any distinct opinion without knowing more of the facts.

When I got back to Washington, President Hayes called on me at my room. It was the only time I have ever known a President of the United States to call upon a member of either House of Congress on public business, although I believe President Lincoln sometimes did it; and it may possibly have happened on other occasions. President Hayes was very much excited. He seemed at the time to think that a great wrong had been done by the Secretary. He brought his fist down upon the table with great emphasis, and said: "Mr. Hoar, I will turn Mr. Schurz out, if you say so." I said: "O no, Mr. President, I hope nothing of that kind will be done. Mr. Schurz is an able man. He has done his best. His mistake, if he has made one, is only that he has adhered obstinately to a preconceived opinion, and has been unwilling to take advice or receive suggestions after he had determined on his course. It would be a great calamity to have one of your Cabinet discredited by you." President Hayes took that view of it. Indeed, I believe on further and fuller inquiry, he came to the conclusion that it was his duty to sustain the Secretary, so far as to keep in the Indian Territory the fragment of the Ponca Tribe who were still there.

I took no public part in the matter. My colleague, Mr. Dawes, who was a very earnest champion and friend of the Indians, commented on the course of the Secretary in the Senate with great severity; and he and the Secretary had an earnest controversy.

Mr. Schurz was a great favorite with our Independents and Mugwumps, many of whom had, like him, left the Republican Party in 1872, and some of whom had not returned to their old allegiance. Mr. Schurz was invited to a public dinner in Boston, at which President Eliot, Dr. James Freeman Clarke and several eminent men of their way of thinking, took part. They did not discuss the merits of the principal question much, but the burden of their speech was eulogy of Mr. Schurz as a great and good man, and severe condemnation of the character of the miserable politicians who were supposed to be his critics and opponents. There was a proposition for a call for a public meeting on the

other side to condemn the Secretary, and stand by the Indians. In this call several very able and influential men joined, including Governor Long. I advised very strongly against holding the meeting. I was quite sure that, on the one hand, neither Mr. Schurz nor the Administration was likely to treat the Indians cruelly or unjustly again; and on the other hand I was equally sure of the absolute sincerity and humanity of the people who had found fault with his action. A day or two, however, after the Schurz dinner, a reporter of a prominent newspaper in Boston asked me for an interview about the matter, to which I assented. He said: "Have you seen the speeches of President Eliot and Dr. Clarke and Mr. Codman at the Schurz banquet?" I said, "Yes." He asked me: "What do you think of them?" I said: "Well, it is very natural that these gentlemen should stand by Mr. Schurz, who has been their leader and political associate. President Eliot's speech reminds me of Baillie Nichol Jarvie when he stood up for his kinsman, Rob Roy, in the Town Council of Glasgow when some of the Baillie's enemies had cast in his teeth his kinship with the famous outlaw. 'I tauld them,' said the Baillie, 'that barring what Rob had dune again the law, and that some three or four men had come to their deaths by him, he was an honester man than stude on ony of their shanks.'" This ended the incident, so far as I was concerned.

To draw an adequate portraiture of Charles Devens would require the noble touch of the old masters of painting or the lofty stroke of the dramatists of Queen Elizabeth's day. He filled many great places in the public service with so much modesty and with a gracious charm of manner and behavior which so attracted and engrossed our admiration that we failed at first to discern the full strength of the man. It is not until after his death, when we sum up what he has done for purposes of biography or of eulogy, that we see how important and varied has been the work of his life.

Charles Devens was born in Charlestown, Massachusetts,

April 4, 1820. His family connections led him to take early in life a deep interest in the military and naval history of the country, especially in that of the War of 1812; while the place of his birth and the fact that he was the grandson of Richard Devens gave to him the interest in the opening of the Revolution which belongs to every son of Middlesex. He was a pupil at the Boston Latin School; was graduated at Harvard in 1838; was admitted to the bar in 1840; practised law in Northfield and afterward in Greenfield; was Senator from Franklin County in 1848 and 1849; was Brigadier-General of the militia; was appointed United States Marshal by President Taylor in 1849, holding that office until 1853; removed to Worcester in 1854; formed a partnership with George F. Hoar and J. Henry Hill in December, 1856; was City Solicitor in the years 1856, 1857 and 1858. The news of the surrender of Fort Sumter was received in Worcester Sunday, April 14. Monday forenoon came the confirmation of the news and President Lincoln's call for 75,000 volunteers. General Devens was engaged in the trial of a cause before the Supreme Court, when the news was told him. He instantly requested another member of the Bar to take his place in the trial, went immediately up street, offered his services to the Government, was unanimously chosen the same day Major of the Third Battalion of Massachusetts Rifles, commissioned the next day, April 16, departed for the seat of war April 20. The battalion under his command was stationed at Fort McHenry. On the 24th of July following he was appointed Colonel of the Fifteenth Massachusetts Regiment.

Gen. Devens was in command of the Fifteenth Regiment at the disastrous battle of Ball's Bluff, where he was struck by a musket ball, which was intercepted by a metallic button which saved his life. His conduct on that day received high encomium from General McClellan. He was soon after appointed a Brigadier-General of Volunteers, and assigned to a brigade in Couch's Division of the Fourth Corps. His division was engaged in the battle in front of Fort Magruder on the 5th of May, 1862. On the 31st of the same month he was engaged in the most critical portion of the

desperate fight at Fair Oaks, where his command was conspicuous for valor and devotion. This was one of the most stubbornly contested fields of the war. Gen. Devens was severely wounded toward the close of the day, but with a few other officers he succeeded in reforming the repeatedly broken lines and in holding the field until reinforcements arrived and stayed the tide of Confederate triumph. He returned to his command as soon as his wound would permit, and took part in the battle of Fredericksburg in December, 1862. In his official report General Newton says: "My acknowledgments are due to all according to their opportunities, but especially to Brigadier-General Charles Devens, who commanded the advance and the rear guard, in the crossing and recrossing of the river." In the following spring General Devens was promoted to the command of a division of the Eleventh Corps. He was posted with his division of 4,000 men on the extreme right of the flank of Hooker's army, which was attacked by 26,000 men under the great rebel leader, Stonewall Jackson. General Devens was wounded by a musket ball in the foot early in the day; but he kept the field, making the most strenuous efforts to hold his men together and stay the advance of the Confederates until his Corps was almost completely enveloped by Jackson's force and, in the language of General Walker, "was scattered like the stones and timbers of a broken dam." He recovered from his wound in time to take part in the campaign of 1864. His troops were engaged on the first of June in the battle of Cold Harbor, and carried the enemy's entrenched line with severe loss. On the third of June, in an attack which General Walker characterizes as one "which is never spoken of without awe and bated breath by any one who participated in it," General Devens was carried along the line on a stretcher, being so crippled by inflammatory rheumatism that he could neither mount his horse nor stand in his place. This was the last action in which he took an active part. On the third of April, 1865, he led the advance into Richmond, where the position of Military Governor was assigned to him after the surrender. He afterwards was second in command to General Sickles,

in the Southeastern Department, and exercised practically all the powers of government for a year or two. This command was of very great importance to him as a part of his legal training. Upon him practically devolved the duty of deciding summarily, but without appeal, all important questions of military law as well as those affecting the civil rights of citizens during his administration.

He was offered a commission in the regular army, which he declined. He came back to Worcester in 1866; renewed his partnership with me for a short time; was appointed Justice of the Superior Court April, 1867; was appointed Justice of the Supreme Court of Massachusetts in 1873; was offered the appointment of Secretary of War in the Cabinet of President Hayes March 5, 1877; a day or two later was tendered the office of Attorney-General by the President, which he accepted and held until the expiration of President Hayes's Administration. He was offered the office of Judge of the Circuit Court of the First Circuit at the death of Judge Shepley, which he very much desired to accept. But the President, although placing this office at his disposal, was exceedingly unwilling to lose his service in the Cabinet; and General Devens, with his customary self-denial, yielded to the desire of his chief. He was again appointed Justice of the Supreme Court of Massachusetts in 1881, and held that office until his death.

He was elected a member of the American Antiquarian Society October 21, 1878. He was a member of the Massachusetts Historical Society. He received the degree of LL.D. from Harvard University in the year 1877. He was chosen President of the Harvard Alumni Association, and again elected President of that Association in 1886, in order that he might preside at the great celebration of the 250th anniversary of the foundation of the college, which he did with a dignity and grace which commanded the admiration of all persons who were present on that interesting occasion. He died January 7, 1891.

General Devens gained very soon after establishing himself in Worcester the reputation of one of the foremost advocates at the bar of Massachusetts. He was a model

of the professional character, of great courtesy to his opponent, great deference to the court, fidelity to his client, giving to every case all the labor which could profitably be spent upon it. The certainty of the absolute fidelity, thoroughness, and skill with which his part of the duty of an important trial would be performed, made it a delight to try cases as his associate. He was especially powerful with juries in cases involving the domestic relations, or which had in them anything of the pathos of which the court-house so often furnishes examples. He did not care in those days for the preparation or argument of questions of law, although he possessed legal learning fully adequate to the exigencies of his profession, and never neglected any duty.

His fine powers continued to grow as he grew older. I think he was unsurpassed in this country in the generation to which he belonged in native gifts of oratory. He had a fine voice, of great compass and power, a graceful and dignified presence. He was familiar with the best English literature. He had a pure and admirable style, an imagination which was quickened and excited under the stimulus of extempore speech, and was himself moved and stirred by the emotions which are most likely to move and stir an American audience. Some of his addresses to juries in Worcester are now remembered, under whose spell jury and audience were in tears, and where it was somewhat difficult even for the bench or the opposing counsel to resist the contagion. He never, however, undertook to prepare and train himself for public speaking, as was done by Mr. Choate or Mr. Everett, or had the constant and varied practice under which the fine powers of Wendell Phillips came to such perfection. But his fame as an orator constantly increased, so that before his death no other man in Massachusetts was so much in demand, especially on those occasions where the veterans of the war were gathered to commemorate its sacrifices and triumphs.

Among the most successful examples of his oratoric power is his address at Bunker Hill at the Centennial in 1875, where the forming the procession and the other exer-

cises occupied the day until nearly sundown, and General Devens, the orator of the day, laid aside his carefully prepared oration and addressed the audience in a brief speech, wholly unpremeditated, which was the delight of everybody who heard it.*

At New Haven he delivered the address before the Army of the Potomac in commemoration of General Meade and the battle of Gettysburg, which is a fine specimen of historic narrative mingled and adorned with stately eloquence. At the banquet in the evening of the same day the gentleman who had been expected to respond to the toast, "The private soldier," was unexpectedly called away, and General Devens was asked at a moment's notice and without preparation to take his place. I heard President Grant—no mean judge—who had himself listened to so much of the best public speaking in all parts of the country, say that General Devens's response to this toast was the finest speech he ever heard in his life. The eulogy upon Grant delivered at Worcester, especially the wonderful passage where he contrasts the greeting which Napoleon might expect from his soldiers and companions in arms at a meeting beyond the grave with that which Grant might expect from his brethren, is also one of the best specimens of eloquence in modern times. Surpassing even these are the few sentences he addressed to his regiment after the battle of Ball's Bluff.

General Devens had a modest estimate of his own best powers. While he was an admirable judge, bringing to the court the weight of his great experience, his admirable sense, his stainless integrity, his perfect impartiality, his great discernment, his abundant learning, it has always seemed to me that he erred after the war in not preferring

* "The oration by Judge Devens was magnificent. He spoke wholly without notes and his effort was largely extemporaneous. He began by saying that the lateness of the hour ('twas nearly six o'clock) would prevent his following the train of any previously prepared effort and he would briefly review the history of the battle and its results upon the world's history. He spoke for nearly an hour and a quarter, holding his fine audience in rapt attention by his eloquence, the elegance of his diction and his superb enunciation. It was, indeed, a wonderful effort, and will compare favorably with Webster's great orations in '25 and '43."—From the diary of Henry H. Edes.

political life to his place upon the bench. He could easily have been Governor or Senator, in which places the affection of the people of Massachusetts would have kept him for a period limited only by his own desire, and might well have been expected to pass from the Cabinet to an even higher place in the service of his country. But he disliked political strife, and preferred those places of service which did not compel him to encounter bitter antagonisms.

He filled the place of Attorney-General with a dignity and an ability which has been rarely if ever surpassed by any of the illustrious men who have filled that great office. The judges of the Supreme Court long after he had left Washington were accustomed to speak of the admirable manner in which he discharged his duties. I once at a dinner heard Mr. Justice Bradley, who was without a superior, if not without a peer in his day, among jurists on either side of the Atlantic, speak enthusiastically of his recollection of General Devens in the office of Attorney-General. Judge Bradley kindly acceded to my request to put in writing what he had said. His letter is here inserted:

WASHINGTON, January 20th, 1891.

HON. GEO. F. HOAR.

My Dear Sir: You ask for my estimate of the services and character of General Devens as Attorney-General of the United States. In general terms I unhesitatingly answer, that he left upon my mind the impression of a sterling, noble, generous character, loyal to duty, strong, able, and courteous in the fulfillment of it, with such accumulation of legal acquirement and general culture as to render his counsels highly valuable in the Cabinet, and his public efforts exceedingly graceful and effective. His professional exhibitions in the Supreme Court during the four years that he represented the Government, were characterized by sound learning, chastely and accurately expressed, great breadth of view, the seizing of strong points and disregard of minute ones, marked deference for the court and courtesy to his opponents. He was a model to the younger members of the bar of a courtly and polished advocate.

He appeared in the court only in cases of special importance; but of these there was quite a large number during his term. As examples, I may refer to the cases of Young *v.* United States (97 U. S. 39), which involved the rights of neutrals in our Civil War, and particularly the alleged right of a British subject, who had been engaged in running the blockade, to demand compensation for a large quantity of cotton purchased in the Confederacy and seized by the military forces of the United States;—Reynolds *v.* United States (98 U. S. 145), which declared the futility of the plea, in cases of bigamy among the Mormons, of religious belief, claimed under the first amendment of the Constitution; and established the principle that pretended religious belief cannot be accepted as a justification of overt acts made criminal by the law of the land;—The Sinking Fund Cases (99 U. S. 700), which involved the validity of the act of Congress known as the Thurman Act, requiring the Pacific Railroad Companies to make annual payments for a sinking fund to meet the bonds loaned to them by the Government;—Tennessee *v.* Davis (100 U. S. 257), as to the right of a United States officer to be tried in the Federal courts for killing a person in self-defence whilst in the discharge of his official duties;—The Civil Rights case of Strander *v.* W. Virginia and others (100 U. S. 303–422), in which were settled the rights of all classes of citizens, irrespective of color, to suffrage and to representation in the jury box, and the right of the Government of the United States to interpose its power for their protection;—Neal *v.* Delaware (103 U. S. 370), by which it was decided that the right of suffrage and (in that case) the consequent right of jury service of people of African descent, were secured by the 15th Amendment to the Constitution, notwithstanding unrepealed state laws or constitutions to the contrary.

In all these cases and many others the arguments of the Attorney-General were presented with distinguished ability and dignity, and with his habitual courtesy and amenity of manner; whilst his broad and comprehensive views greatly aided the court in arriving at just conclusions. In all of

them he was successful; and it may be said that he rarely assumed a position on behalf of the Government, in any important case, in which he was not sustained by the judgment of the court. His advocacy was conscientious and judicial rather than experimental—as is eminently fitting in the official representative of the Government. It best subserves the ends of justice, the suppression of useless litigation, and the prompt administration of the law.

I can only add that the members of the Supreme Court parted with Attorney-General Devens with regret. Of him, as of so many other eminent lawyers, the reflection is just, that the highest efforts of advocacy have no adequate memorial. Written compositions remain; but the noblest displays of human genius at the bar—often, perhaps, the successful assaults of Freedom against the fortresses of Despotism—are lost to history and memory for want of needful recordation. *Vixere fortes ante Agamemnona;* or, as Tacitus says of the eloquent Haterius, "Whilst the plodding industry of scribblers goes down to posterity, the sweet voice and fluent eloquence of Haterius died with himself."

Very truly yours.

JOSEPH P. BRADLEY.

He was an admirable historical investigator and narrator. He carefully investigated the facts. He told the story of the heroic days of the Revolution and of the heroic days of the War for the Union with a graphic power which will give his addresses on such subjects a permanent place in our best historical literature.

But it is as a soldier that his countrymen will remember him, and it is as a soldier that he would wish to be remembered. Whatever may be said by the philosopher, the moralist, or the preacher, the instincts of the greater portion of mankind will lead them to award the highest meed of admiration to the military character. Even when the most selfish of human passions, the love of power or the love of fame, is the stimulant of the soldier's career, he must at least be ready for the supreme sacrifice—the willingness to give his life, if need be, for the object he is pur-

suing. But when his end is purely unselfish, when the love of country or the desire to save her life by giving his own has entire mastery of the soul, all mankind are agreed to award to the good soldier a glory which it bestows nowhere else.

There was nothing lacking in General Devens to the complete soldierly character. He had a passionate love of his country; he was absolutely fearless; he never flinched before danger, sickness, suffering or death. He was prompt, resolute and cool in the face of danger. He had a warm and affectionate heart. He loved his comrades, especially the youth who were under his command. He had that gentle and placable nature which so often accompanies great courage. He was incapable of a permanent anger. He was still less capable of revenge or of willingness to inflict injury or pain.

As Clarendon says of Falkland: "He had a full appetite of fame by just and generous actions, so he had an equal contempt for it by base and servile expedients." He never for an instant tolerated that most pernicious and pestilent heresy, that so long as each side believed itself to be in the right there was no difference between the just and the unjust cause. He knew that he was contending for the life of his country, for the fate of human liberty on this continent. No other cause would have led him to draw his sword; and he cared for no other earthly reward for his service.

> Oh just and faithful knight of God,
> Ride on, the prize is near.

CHAPTER IV

ATTEMPT TO REOPEN THE QUESTION OF THE TITLE TO THE PRESIDENCY

In general the determination of the title to the Presidency was acquiesced in in a manner highly creditable to the people. The Democratic Party submitted to their disappointment in a manner which was on the whole exceedingly praiseworthy. This was due very largely to the influence of Mr. Lamar, of Mississippi, and I suppose to that of Mr. Bayard, of Delaware. But there were not wanting persons who were willing to revive the question for political advantage, whatever the effect upon the public tranquillity. On May 13, 1878, when the President had been for more than a year in the quiet possession of his office, Mr. Clarkson N. Potter, of New York, introduced in the House of Representatives a resolution for the appointment of a Committee to investigate alleged frauds in the States of Louisiana and Florida, in the recent Presidential election. This resolution was adopted by the House, in which every possible parliamentary method for its defeat was resorted to by the Republican minority. The Republicans were exceedingly alarmed, and the proceeding seemed likely to create a financial panic which would disturb and injure the business of the country.

Shortly after Mr. Potter's committee was appointed, it was expected that a report would be made denying the validity of President Hayes's title, and that the Democratic House of Representatives would be advised to refuse to acknowledge him as President. This would have thrown the Government into great confusion and would have made a square issue. A caucus of Republican Senators was held, and the following gentlemen were appointed a Committee, with directions to report what action, if any, ought to be

taken by the Senate in the matter: Mr. Edmunds, Mr. Howe, Mr. Conkling, Mr. Allison, Mr. Sargent, Mr. Ingalls, Mr. Oglesby, Mr. Jones (of Nevada), Mr. Christiancy, Mr. Blaine, Mr. Hoar.

I was requested by my associates to prepare an address to the people, to be signed by the Republican Senators, arraigning the Democratic leaders for their unjustifiable and revolutionary course, and pointing out the public danger. The Committee had a second meeting, when I read to them the following address, which I had prepared and which I still have in my possession:

"Our sense of the presence of a great public danger makes it our duty to address you. We are satisfied that the leaders of the Democratic Party meditate an attack on the President's possession of his office, the results of which must be the destruction of the reviving industries of the country, civil confusion and war. There has been difference of opinion whether the count of the electoral vote, which under the Constitution determines the President's title must be made by the two House of Congress, or by the President of the Senate in their presence. In the count of electoral votes, which resulted in the declaration of the election of President Hayes, both methods concurred, the action of the two Houses being in accordance with a law regulating their proceedings, enacted in the last Congress to meet the case by large majorities of both branches. The title of President Hayes, therefore, not only rests upon the strongest possible Constitutional sanction, but the honor of both the great parties in the country is solemnly pledged to maintain it.

"Yet the Democratic majority in the House of Representatives has set on foot a proceeding, which they call an investigation, intended, if they can get control of the next Congress, to pave the way for the expulsion of President Hayes, and the seating of Mr. Tilden in his place. It will be the President's duty to maintain himself in office, and the duty of all good citizens to stand by him. The result is Civil War.

"We know that many Democratic Senators and Representatives disclaim in private the purpose we attribute to their leaders, and denounce the wickedness and folly of an attempt to set aside the accepted result of the last election of President. You doubtless know that many of your Democratic neighbors give you the same assurance. Be not lulled by these assurances into a false security. He is little familiar with the history of that party who does not know how its members follow in compact columns where its leaders point the way. Like assurances preceded the repeal of the Missouri Compromise. Like assurances on the part of many Democrats at the South preceded the late rebellion. Such convictions on the part of the Democrats, however honest or earnest, of the danger and dishonor of the proceedings just inaugurated found expression in but a single dissenting vote in the House of Representatives.

"They say that they believe that the result in two of the States was accomplished by fraud. We believe, on the other hand, that those States, and others whose votes were counted for Tilden, were strongly Republican, and would have been counted for Hayes without a question, but for violence and crime. The Constitution provides the time, place and manner in which these contentions must be settled. They have been so settled as between Hayes and Tilden, and it is only by usurpation and revolution that a subsequent Congress can undertake to reopen them. You know how easily party majorities persuade themselves, or affect to persuade themselves, of the existence of facts, which it is for their party interest to establish.

"At the end of his four years the President lays down his office, and his successor is chosen. The people have in their hands this frequent, easy and peaceful remedy for all evils of administration. The usurpation by Congress of the power to displace a President whenever they choose to determine that the original declaration of the result of an election was wrong, on whatever pretence it is defended, is a total overthrow of the Constitution.

"If you would ward off this blow at the national life, you

have one perfect means of defence, the election of a Republican majority in the next House of Representatives.''

When they had all agreed to it, Mr. Conkling, a member of the Committee who had not attended the previous meeting, came in late. The document was read to him. He opposed the whole plan with great earnestness and indignation, spoke with great severity of President Hayes, and said that he hoped it would be the last time that any man in the United States would attempt to steal the Presidency. Mr. Conkling's influence in the Senate and in the country was then quite powerful. It was thought best not to issue the appeal unless it were to have the unanimous support of the Republicans. But the discovery of some cipher dispatches implicating some well-known persons, including one member of Mr. Tilden's household, in an attempt to bribe the canvassing boards in the South and to purchase some Republican electors in the South and one in Oregon, tended to make the leading members of that party sick of the whole matter. President Hayes served out his term peacefully and handed over the executive power, not only to a Republican successor, but to a member of the majority of the Electoral Commission. So it seems clear that the bulk of the American people had little sympathy with the complaints.

CHAPTER V

THE SENATE IN 1877

When I came to the Senate that body was at the very height of its Constitutional power. It was, I think, a more powerful body than ever before or since. There were no men in it, I suppose, who were equal in reputation or personal authority to either of the great triumvirate—Webster, Clay and Calhoun. If we may trust the traditions that have come down from the time of the Administrations of Washington and Adams, when the Senate sat with closed doors, none of them ever acquired the authority wielded by the profound sagacity of Ellsworth.

But the National authority itself, of which the Senate was a part, was restricted by the narrow construction which prevailed before the Civil War. During the Civil War everything was bowed and bent before the military power. After the war ended the Senate was engaged in a controversy with Andrew Johnson, during which there could be no healthy action either of the executive or the legislative branch of the Government. It was like a pair of shears, from which the rivet was gone.

With the coming in of Grant harmonious relations were established between the two departments. But the Senators were unwilling to part with the prerogatives, which they had helped each other to assert, and which had been wrenched from the feeble hand of Johnson. What was called Senatorial Courtesy required every Senator belonging to the party in the majority to support every other in demanding the right to dictate and control the executive and judicial appointments from their respective States. So every Senator had established a following, like that of the Highland chieftain—"Vich Ian Vohr with his tail on"—devoted, of

course, to the party, but devoted more completely and immediately to his political fortunes.

President Grant in the beginning undertook to break down this arrogant claim. He recommended the repeal of the Civil Tenure Act, the establishment of a system of competitive examinations for appointments in the civil service and, under the advice of Attorney-General Hoar, made his nominations to the new Circuit Court without regard to Senatorial dictation. But he very soon abandoned this purpose, and formed a close friendship and alliance with the most earnest opponents of the reform.

While, in my opinion, this claim of the Senators was untenable and of injurious public consequences, it tended to maintain and increase the authority of the Senate. The most eminent Senators—Sumner, Conkling, Sherman, Edmunds, Carpenter, Frelinghuysen, Simon Cameron, Anthony, Logan—would have received as a personal affront a private message from the White House expressing a desire that they should adopt any course in the discharge of their legislative duties that they did not approve. If they visited the White House, it was to give, not to receive advice. Any little company or coterie who had undertaken to arrange public policies with the President and to report to their associates what the President thought would have rapidly come to grief. These leaders were men, almost all of them, of great faults. They were not free from ambition. Some of them were quite capable of revenge, and of using the powers of the Government to further their ambition or revenge. But they maintained the dignity and the authority of the Senatorial office. Each of these stars kept his own orbit and shone in his sphere, within which he tolerated no intrusion from the President or from anybody else.

The reform of the civil service has doubtless shorn the office of Senator of a good deal of its power. I think President McKinley, doubtless with the best and purest intentions, did still more to curtail the dignity and authority of the office. I dare say the increase in the number of Senators has had also much to do with it. President McKinley, with his great wisdom and tact and his delightful individual quality,

succeeded in establishing an influence over the members of the Senate not, I think, equalled from the beginning of the Government, except possibly by Andrew Jackson. And while the strong will of Jackson subjugated Senators, in many cases, as it did other men, yet it roused an antagonism not only in his political opponents, but in many important men of his own party, which would have overthrown him but for his very great popularity with the common people. President McKinley also made one serious mistake, of which indeed he did not set the example. Yet he made what was before but an individual and extraordinary instance, a practice. If that practice continue, it will go far, in my judgment, to destroy the independence and dignity of the Senate. That is, the appointment of members of the Senate to distinguished and lucrative places in the public service, in which they are to receive and obey the command of the Executive, and then come back to their seats to carry out as Senators a policy which they have adopted at the command of another power, without any opportunity of consultation with their associates, or of learning their associates' opinions.

The Constitution provides, Article I., Sec. 6,

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office."

It is, I suppose, beyond dispute that the intention of that provision was to protect the members of the Legislative branch of the Government from Executive influence. The legislator was not to be induced to create a civil office, or to increase its emoluments, at the request of the Executive, in the hope that he might be appointed. He was to preserve his independence of Executive influence, and to approach all questions in which he might have to deal with matters

which concerned the Executive power, or Executive action, absolutely free from any bias.

This provision comes, with some modification, from the English Constitution. The fear of Executive influence was in that day constantly before the framers of the Constitution and the people who adopted it. Roger Sherman, in his correspondence with John Adams, says that he "esteems the provision made for appointment to office to be a matter of very great importance, on which the liberties and safety of the people depend nearly as much as on legislation."

"It was," he says, "a saying of one of the Kings of England that while the King could appoint the Bishops and Judges he might have what religion and laws he pleased."

Mr. Sherman adds: "By such appointments, without control, a power might be gradually established that would be more formidable than a standing army."

I think that sooner or later some emphatic action will be taken, probably in the form of a declaratory resolution, which will put an end to this abuse. But there will always be found men in either branch who desire such honorable employment. They will be men of great influence. There are also frequently men of personal worth who always support whatever the President of the United States thinks fit to do, and trot or amble along in the procession which follows the Executive chariot. So, if any President shall hereafter repeat this attempt it will require a good deal of firmness to defeat it.

Senator Morgan of Alabama made a very bright comparison of the relation to the White House of some very worthy Senators to that of the bird in a cuckoo clock. He said that whenever the clock at the White House strikes the bird issues out of the door in the Senate Chamber, and says: "Cuckoo, Cuckoo," and that when the striking is over, he goes in again and shuts the door after him. He was speaking of Democratic Senators. But I am afraid my excellent Republican brethren can furnish quite as many instances of this servility as their opponents.

The President has repeatedly, within the last six years, appointed members of the Senate and House to be Commis-

sioners to negotiate and conclude, as far as can be done by diplomatic agencies, treaties and other arrangements with foreign Governments, of the gravest importance. These include the arrangement of a standard of value by International agreement; making the Treaty of Peace, at the end of the War with Spain; arranging a Treaty of Commerce between the United States and Great Britain; making a Treaty to settle the Behring Sea controversy; and now more lately to establish the boundary line between Canada and Alaska.

President McKinley also appointed a Commission, including Senators and Representatives, to visit Hawaii, and to report upon the needs of legislation there. This last was as clearly the proper duty and function of a committee, to be appointed by one or the other branch of Congress, as anything that could be conceived.

The question has been raised whether these functions were offices, within the Constitutional sense. It was stoutly contended, and I believe held by nearly all the Republican Senators at the time when President Cleveland appointed Mr. Blount to visit Hawaii, and required that the diplomatic action of our Minister there should be subject to his approval, that he was appointing a diplomatic officer, and that he had no right so to commission Mr. Blount, without the advice and consent of the Senate. President McKinley seemed to accept this view when he sent in for confirmation the names of two Senators, who were appointed on the Commission to visit Hawaii. The Senate declined to take action upon these nominations. The very pertinent question was put by an eminent member of the Senate: If these gentlemen are to be officers, how can the President appoint them under the Constitution, the office being created during their term? Or, how can they hold office and still keep their seats in this body? If, on the other hand, they are not officers, under what Constitutional provision does the President ask the advice and consent of the Senate to their appointment?

But the suggestion that these gentlemen are not officers, seems to me the merest cavil. They exercise an authority, and are clothed with a dignity equal to that of the highest

and most important diplomatic officer, and far superior to that of most of the civil officers of the country. To say that the President cannot appoint a Senator or Representative postmaster in a country village, where the perquisites do not amount to a hundred dollars a year, where perhaps no other person can be found to do the duties, because that would put an improper temptation in the way of the legislator to induce him to become the tool of the Executive will, and then permit the President to send him abroad; to enable him to maintain the distinction and enjoy the pleasure of a season at a foreign capital as the representative of the United States, with all his expenses paid, and a large compensation added, determined solely by the Executive will; and to hold that the framers of the Constitution would for a moment have tolerated that, seems to me utterly preposterous.

Beside, it places the Senator so selected in a position where he cannot properly perform his duties as a Senator. He is bound to meet his associates at the great National Council Board as an equal, to hear their reasons as well as to impart his own. How can he discharge that duty, if he had already not only formed an opinion, but acted upon the matter under the control and direction of another department of the Government?

The Senate was exceedingly sensitive about this question when it first arose. But the gentlemen selected by the Executive for these services were, in general, specially competent for the duty. Their associates were naturally quite unwilling to take any action that should seem to involve a reproof to them. The matter did not, however, pass without remonstrance. It was hoped that it would not be repeated. At the time of the appointment of the Silver Commission, I myself called attention to the matter in the Senate. Later, as I have said, the Senate declined to take action on the Commission appointed to visit Hawaii. But there was considerable discussion. Several bills and resolutions were introduced, which were intended to prohibit such appointments in the future. The matter was referred to the Committee on the Judiciary. It turned out that three

members of that Committee had been appointed by President McKinley on the Canadian Commission. One of them, however, said he had accepted the appointment without due reflection, and he was quite satisfied that the practice was wrong. The Committee disliked exceedingly to make a report which might be construed as a censure of their associates. So I was instructed to call upon President McKinley and say to him in behalf of the Committee, that they hoped the practice would not be continued. That task I discharged. President McKinley said he was aware of the objections; that he had come to feel the evil very strongly; and while he did not say in terms that he would not make another appointment of the kind, he conveyed to me, as I am very sure he intended to do, the assurance that it would not occur again. He said, however, that it was not in general understood how few people there were in this country, out of the Senate and House of Representatives, qualified for important diplomatic service of that kind, especially when we had to contend with the trained diplomatists of Europe, who had studied such subjects all their lives. He told me some of the difficulties he had encountered in making selections of Ministers abroad, where important matters were to be dealt with, our diplomatic representatives having, as a rule, to be taken from entirely different pursuits and employments.

That Congress in the past has thought it best to extend rather than restrict this prohibition is shown by the statute which forbids, under a severe penalty, members of either House of Congress from representing the Government as counsel.

CHAPTER VI

LEADERS OF THE SENATE IN 1877

As I just said, there was no man in the Senate when I entered it who equalled in renown either Webster, Clay or Calhoun, or wielded in the Senate an influence like that of Oliver Ellsworth. With at most but two or three exceptions, no one of them would be counted among the great men of the century in which he lived, or will be remembered long after his death. But the average excellence was high. It was a company of very wise men, fairly representing the best sentiment and aspiration of the Republic. The angers and influences of the Civil War had gradually cooled under the healing influence of Grant. The American people was ready to address itself bravely to the new conditions and new problems, or to old problems under new conditions.

I shall speak briefly here of some of the principal Senators who were there when I took my seat on March 4, 1877, or who came into the Senate shortly afterward during that Congress. Others I have mentioned in other places in this book.

William A. Wheeler, of New York, was Vice-President and President of the Senate. On the Republican side were: William B. Allison of Iowa, Henry B. Anthony and Ambrose E. Burnside of Rhode Island, James G. Blaine and Hannibal Hamlin of Maine, Blanche K. Bruce of Mississippi, Simon Cameron of Pennsylvania, Roscoe Conkling of New York, John A. Logan of Illinois, Henry L. Dawes of Massachusetts, George F. Edmunds and Justin S. Morrill of Vermont, Frederick T. Frelinghuysen of New Jersey, John J. Ingalls of Kansas, John P. Jones of Nevada, Stanley Matthews and John Sherman of Ohio, John H. Mitchell of Oregon, Oliver P. Morton of Indiana, Aaron A. Sargent of

California, Henry M. Teller of Colorado, Bainbridge Wadleigh of New Hampshire and William Windom of Minnesota.

On the Democratic side were: Thomas F. Bayard and Eli Saulsbury of Delaware, James B. Beck of Kentucky, Francis M. Cockrell of Missouri, A. H. Garland of Arkansas, John B. Gordon of Georgia, L. Q. C. Lamar of Mississippi, Matt Ransom of North Carolina, Allen G. Thurman of Ohio, William P. Whyte of Maryland, M. C. Butler of South Carolina, William W. Eaton of Connecticut, James B. Eustis of Louisiana, Francis Kernan of New York, J. R. McPherson of New Jersey, and Daniel W. Voorhees of Indiana.

Henry B. Anthony was the senior member of the Senate when I entered it. When he died he had been a Senator longer than any other man in the country, except Mr. Benton. He had come to be the depository of its traditions, customs and unwritten rules. He was a man of spirit, giving and receiving blows on fit occasions, especially when anybody assailed Rhode Island. He had conducted for many years a powerful newspaper which had taken part in many conflicts. But he seemed somehow the intimate friend of every man in the Senate, on both sides. Every one of his colleagues poured out his heart to him. It seemed that no eulogy or funeral was complete unless Anthony had taken part in it, because he was reckoned the next friend of the man who was dead.

He was fully able to defend himself and his State and any cause which he espoused. No man would attack either with impunity under circumstances which called on him for reply, as he showed on some memorable occasions. But he was of a most gracious and sweet nature. He was a lover and maker of peace. When his own political associates put an indignity upon Charles Sumner, the great leader of emancipation in the Senate, which had been the scene of his illustrious service, no man regretted the occurrence more than Mr. Anthony.

And straight Patroclus rose,
The genial comrade, who, amid the strife
Of kings, and war of angry utterance,
Held even balance, to his outraged friend
Heart-true, yet ever strove with kindly words
To hush the jarring discord, urging peace.

Mr. Anthony was a learned man; learned in the history of the Senate and in parliamentary law; learned in the history of his country and of foreign countries; learned in the resources of a full, accurate and graceful scholarship. Since Sumner died I suppose no Senator can be compared with him in this respect. Some passages in an almost forgotten political satire show that he possessed a vein which, if he had cultivated it, might have placed him high in the roll of satiric poets. But he never launched a shaft that he might inflict a sting. His collection of memorial addresses is unsurpassed in its kind of literature. He was absolutely simple, modest, courteous and without pretence. He was content to do his share in accomplishing public results, and leave to others whatever of fame or glory might result from having accomplished them.

To be, and not to seem, was this man's wisdom.

The satire, of which I have just spoken, is almost forgotten. It is a poem called "The Dorriad," written at the time of the famous Dorr Rebellion. The notes, as in the case of the "Biglow Papers," are even funnier than the text. He gives an account of the Dorr War in two cantos, after the manner of Scott's "Marmion." He describes the chieftain addressing his troops on Arcote's Hill, the place where one Arcote, in former days, had been hung for sheep-stealing, and buried at the foot of the gallows.

The Governor saw with conscious pride,
The men who gathered at his side;
That bloody sword aloft he drew,
And "list, my trusty men," he cried—
"Here do I swear to stand by you,
As long as flows life's crimson tide;—
Nor will I ever yield, until

I leave my bones upon this hill."
His men received the gallant boast
With shouts that shook the rocks around.
But hark, a voice? old Arcote's ghost
Calls out, in anger, from the ground,
"If here your bones you mean to lay,
Then, damn it, I'll take mine away."

I do not know that I can give a fair and impartial estimate of Roscoe Conkling. I never had any personal difficulty with him. On the other hand, he was good enough to say of a speech which I made in the Presidential campaign of 1872, that it was the best speech made in the country that year. But I never had much personal intercourse with him, and formed an exceedingly unfavorable opinion of him. He was an able man, though not superior in ability to some of his associates. I do not think he was the equal in debate of Mr. Blaine, or of Carl Schurz, or, on financial questions with which the latter was familiar, of John Sherman. But he was undoubtedly a strong man. His speech nominating Grant at the National Convention of 1880 was one of very great power. But he was unfit to be the leader of a great party, and was sure, if he were trusted with power, to bring it to destruction. He was possessed of an inordinate vanity. He was unrelenting in his enmities, and at any time was willing to sacrifice to them his party and the interests of the country. He used to get angry with men simply because they voted against him on questions in which he took an interest. Once he would not speak to Justin S. Morrill, one of the wisest and kindliest of men, for months, because of his anger at one of Morrill's votes. I suppose he defeated the Republican Party in New York when General John A. Dix was candidate for Governor. That opinion, however, depends chiefly on common rumor. Governor Boutwell, in his "Recollections," says that Mr. Conkling contributed secretly to the defeat of Mr. Blaine, although he had been willing to support Blaine four years before. He was one of the men whose counsel wrought grievous injury to Grant, and persuaded him to permit the foolish

attempt to nominate him for a third term. The deserved respect which the American people had for Grant, and his great influence, would not induce them to bring Conkling and the men who were his associates again into power. I can hardly think of a man of high character in the Republican Party, except Grant, who retained Conkling's friendship. His resignation of the office of Senator showed how utterly lacking he was in sound political wisdom, or in lofty political morality. That a Senator of the United States should vacate his own office because he could not control Executive patronage was a proceeding not likely to be regarded with much respect by the American people. I suppose he expected that he would be returned by the New York Legislature, and that the scene of his coming back would be one of great dramatic effect.

The reason of his action was President Garfield's nomination of Judge Robertson, who had been his own earnest supporter for the Presidency, to the office of Collector of the port of New York. It happened in this way: General Garfield's nomination for the Presidency, of which I have told the story in another place, was brought about in part by the aid of some of the New York delegation, led by Judge Robertson, who had broken away from Conkling's leadership. He was of course angry. After Garfield's election, he demanded that no one of the New York opponents to Grant's nomination should be appointed to office by the incoming Administration. Garfield told me the whole story during the spring session of 1881. He had an interview with Conkling, I think by his own request, and endeavored to come to some understanding with him which would ensure harmony. He told Conkling that he desired to make one conspicuous appointment of a New York man who had supported him against President Grant, and that thereafter appointments should be made of fit men, without regard to the factional division of the party in New York, between his supporters and those of Grant, and that the Senators would in all cases be consulted. Conkling would not listen to the suggestion, and declared that he would not consent to the appointment of Judge Robertson to any important office in this

country; that if the President chose to send him abroad, he would make no objection. President Garfield told me that Conkling's behavior in the interview was so insolent that it was difficult for him to control himself and keep from ordering him out of his presence. Nothing could be more preposterous or insolent than the demand of a Senator from any State that a President just elected, who had received the support of the people of that State, should ostracize his own supporters. It would have been infamous for Garfield to yield to the demand.

I ought, in saying that there was no man of high character and great ability among the leaders of the Republican Party who retained Conkling's friendship, to have excepted Hamilton Fish. He was a man of great wisdom, who understood well the importance to the Republican Party of avoiding a breach with the powerful Senator from New York. But Conkling was jealous of all the other able men in the Republican Party in his own State. He could—

> Bear, like the Turk, no brother near the throne.

The spirits of good and evil politics have striven with one another in New York from the beginning of her history as Jacob and Esau strove together in the womb. In general the former has prevailed in western New York and along the lakes. In the city of New York sometimes one has carried the day, and sometimes the other. When the bad element was in power, the noble State has reminded me of Tennyson's eagle caught by the talons in carrion, unable to fly or soar.

Oliver Wolcott, who had been one of Washington's Cabinet, afterward Governor of Connecticut, dwelt in New York for some time. He gives this account of New York politics.

"After living a dozen years in that State, I don't pretend to comprehend their politics. It is a labyrinth of wheels within wheels, and it is understood only by the managers. Why, these leaders of the opposite parties, who—in the papers and before the world—seem ready to tear each

other's eyes out, will meet some rainy night in a dark entry, and agree, whichever way the election goes, they will share the spoils together!"

John G. Palfrey, in his wonderful "Papers on the Slave Power," was led by his natural impatience with the conduct of the great State, which seemed to him such an obstacle in the path of Liberty, to utter the following invective:

"Poor soulless giant, her honorable history is yet to begin. From her colonial times, when, patching up a dastardly truce, she helped the French and Indians down from the Berkshire hills against the shield which brave Massachusetts held over the New England settlements, through the time of her traitors of the Revolutionary age, down to the time of her Butlers and her Marcys, her Van Burens and Hoyts, poltroonery and corruption have with her ruled the hour. Nature has her freaks, and in one of them she gave a great man, John Jay, to New York. Hamilton was a waif from the West Indies on her spirit-barren strand, and Rufus King from Massachusetts. No doubt, among her millions, she has many wise and good, but the day when they begin to impress any fit influence of theirs upon her counsels, will open a new chapter in the annals of New York."

I am tempted to quote this powerful invective for its literary excellence, and not for its justice. The history of New York, on the whole, has been a noble history. It must be considered that any people that opens its hospitable door of welcome to all mankind, with the elective franchise, must itself, for a time, seem to suffer in the process, and must be strongly tempted to protect itself against evil government by getting control of the powers of Government by unjustifiable methods.

For many years a large majority of the people of the city of New York were of foreign birth or parentage. But how wonderfully most of these have grown in the elements of good citizenship, and of honorable manhood; and how wonderfully their sisters and daughters have grown in the

elements of womanhood. Freedom is the best schoolteacher.

Sometimes a political leader in New York who had got power by forbidden ways, has used it for the good of the Republic. I suppose the worst examples of all low political leadership were the Pelhams, the Duke of Newcastle and his brother; yet without them, Lord Chatham's glorious career would have been unknown to the history of English liberty. Chatham used to say: "The Duke of Newcastle lends me his majority to carry on the Government."

Let me not be understood as meaning to compare Roscoe Conkling with such characters. He was fearless. He was a powerful debater. He never flinched in debate from the face of any antagonist. There was something almost sublime in his lofty disdain. He was on the side of the country in her hour of peril. I like Charles Sumner and John Jay and John Adams better. Neither of these men could have lived long on terms of friendship with Conkling. I do not think George Washington could have endured him. But let what was best in him, after all, be remembered, even if we do not forget his great faults.

I ought not, in speaking of the eminent Senators whom I have known, to omit Blanche K. Bruce of Mississippi. Except Mr. Revels, from the same State, he is the only negro who ever sat in the Senate of the United States. He conducted himself with great propriety. He was always courteous and sensible. He had a clear understanding of great questions which came up, and was quite influential with his fellow Senators. When the Chinese matter was up, he stated in a few words that he could not, when he recalled the history of his own race, consent to vote for any measure which discriminated against any man by reason of his race or color. He left the Senate Chamber, I believe, with the entire respect of his associates on both sides. He was afterward Register of the Treasury. His speech and vote on the Chinese question were in contrast with those of Senator Jonas, of the neighboring State of Louisiana. In my speech in opposition to the Chinese bill, or that on the Chinese

Treaty, I alluded at some length to the treatment of the Jews in the dark ages and down to a very recent time. Senator Jonas, who was a Jew, paid me some compliments about my speech. I said: "Why will you not remember the terrible history of the men of your own race and blood, and help me resist a like savage treatment of another race?" Mr. Jonas rejected the suggestion with great emphasis, and said: "Mr. Hoar, the Jews are a superior race. They are not to be classed with the Chinese."

There were several negro Representatives from the South when I was in the House of Representatives. All of them behaved with great propriety. They were men who took care of themselves and the interests of their people in any debate. Mr. Rainey, of South Carolina, had a spirited tilt with S. S. Cox, one of the most brilliant of the Democratic leaders, in which he left Cox unhorsed and on his back in the arena. None of them ever said an indiscreet thing, no one of them ever lost his temper or gave any opportunity for an angry or intolerant or contemptuous reply.

Soon after Alexander H. Stephens, Vice-President of the Confederacy, came to the House, in the Congress of 1875–7, unanimous consent was asked that he might address the House at length, without being limited by the hour rule. Judge Hoar, then a member of the House, stipulated that Mr. Elliott, of South Carolina, should, if he liked, have leave to reply. This could not decently be refused, and that was granted also. Thereupon Stephens made a powerful speech, for which he had doubtless made most careful preparation. Robert B. Elliott then made, on the instant that Stephens got through, an admirable reply, of which it is great praise and still not saying too much that it deserves to rank with the speech of Mr. Stephens.

Elliott delivered an excellent eulogy on Charles Sumner, in Boston, which was published with those of Carl Schurz and George William Curtis, and was entirely worthy of the companionship.

Perhaps, on the whole, the ablest of the colored men who served with me in Congress, although each of the gentlemen

I have named deserves high commendation, was John R. Lynch of Mississippi. I had a very pleasant acquaintance with him when he was in the House. He was afterward Fourth Auditor of the Treasury.

I was the means of procuring for him a national distinction which very much gratified the men of his color throughout the country. The supporters of Mr. Blaine in the National Convention of 1884 had a candidate of their own for temporary presiding officer. I think it was Mr. Clayton of Arkansas. It was desired to get a Southern man for that purpose. The opponents of Mr. Blaine also desired to have a candidate of their own from the South. The colored Southern men were generally Blaine men. I advised them to nominate Lynch, urging that it would be impossible for the Southern colored people, whatever their preference might be as a candidate for the Presidency, to vote against one of their own color. Lynch was nominated by Henry Cabot Lodge, afterward my colleague in the Senate, and seconded by Theodore Roosevelt and by George William Curtis. Lynch presided over the Convention during the whole of the first day, and a part of the second. He made an admirable presiding officer.

Quite curiously, I have had something to do with introducing a little more liberal practice in this respect into the policy of the country.

I was the first person who ever invited a colored man to take the Chair in the Senate. I happened to be put in the Chair one afternoon when Vice-President Wheeler was away. I spied Mr. Bruce in his seat, and it occurred to me that it would be a good thing to invite him to take my place, which he did.

When I was presiding over the National Convention of 1880, one of the English Royal Princes, Prince Leopold, Duke of Albany, son of Victoria, visited the Convention. He was brought up and introduced to me. I suppose that was one of the very rare instances in which a scion of the English Royal House was presented to anybody, instead of having the person presented to him. Wishing to converse with the Prince, I called Mr. Bruce to the Chair. I thought

it would be an excellent opportunity to confer an honor upon a worthy colored man in the presence of a representative of this Royal House. Frederick Douglas afterward called on me with a delegation of colored men, and presented me with a letter signed by prominent colored men of the country, thanking me for this act.

It also was my fortune to secure the selection, on my recommendation, of the first colored man ever appointed to the Railway Mail Service. This was soon after I entered the House of Representatives in 1869.

Perhaps I may as well add in this connection that I believe I recommended the first married woman ever appointed postmaster in this country, shortly after I entered the House.

When Colonel Chenoweth, who had been on General Grant's staff, a most brilliant and able officer of the War, died in office as Consul at Canton, China, to which he was appointed by President Grant, I urged very strongly upon Grant the appointment of his widow to the place. She had, during her husband's illness, performed a great part of the duties very well, and to the great satisfaction of the merchants doing business there. I told General Grant the story. He said he would make the appointment—to use his own phrase—if Fish would let him. But Mr. Fish was inexorable. He thought it would be a very undignified proceeding. He also urged, with great reason, that a Consul had to hold court for the trial of some grave offences, committed often by very bad characters, and that it was out of the question that a delicate lady should be expected to know, or to have anything to do with them. So the proposal fell through.

Daniel W. Voorhees of Indiana served in the House with me. I had with him there one very angry conflict. But it did not interrupt our friendly relations. He was a man of a good deal of eloquence, very popular in his own State, and said to have been a very successful and able lawyer, especially in arguing cases to juries. His political speeches in the Senate were carefully prepared, very able statements

of his side, and very severe denunciations of his antagonists. But he was a very kind-hearted man indeed, always willing to do a kindness to any of his associates, or to any person in trouble. If he could not be relied on to protect the Treasury against claims of doubtful validity, when they were urged by persons in need, or who in any way excited his sympathy, it ought to be said in defence of him, that he would have been quite as willing to relieve them to the extent of his power from his private resources.

Bainbridge Wadleigh of New Hampshire succeeded to the Chairmanship of the Committee on Privileges and Elections after Mr. Morton's death in the summer of 1869. He was a modest, quiet and unpretending man, of stainless integrity, of great industry in dealing with any matter for which he had direct responsibility, and of great wisdom and practical sense. I formed a very pleasant friendship with him, and regretted it exceedingly when he left the Senate, after serving a single term. There was at the time a very bad practice in New Hampshire of frequently changing her Senators. So few of the very able men who have represented her in the Senate for the last fifty years have made the impression upon the public service, or gained the fame to which their ability would have entitled them, if they had had longer service. Mr. Wadleigh was an excellent lawyer, and the Senate gave him its confidence in all matters with which his important Committee had to deal.

David Davis of Illinois was a very interesting character. He had been a successful lawyer, an eminent Judge in his State, and a very admirable Judge of the Supreme Court of the United States, to which office he was appointed by Abraham Lincoln.

He entered the Senate when I did, and served one term of six years. His service in the Senate did not add at all to his distinction. The one thing he had done in life of which he was very proud and which was of most importance, was bringing about the nomination of Abraham Lincoln at Chicago. Of that he liked to discourse whenever he could get

a listener, and his discourses were always so entertaining that everybody listened who could.

David Davis thought that but for him Lincoln would not have been nominated. I have little doubt that he was right. He had many able and bright men to help him. But he was the leader, director and counsellor of all the forces. He threw himself into it with all the zeal of a man fighting for his life. He made pledges right and left, seeming to discover every man's weak point, and used entreaty, flattery and promises without stint, and, if he were himself to be believed, without much scruple. When somebody said to him in my hearing, "You must have used a good deal of diplomacy, Judge, at that Convention." "Diplomacy," replied Davis, "My dear man, I lied like the devil." He had that sense of humor peculiar to Americans, which likes to state in an exaggerated way things that are calculated to shock the listener, which our English and German brethren cannot comprehend. So I do not think this statement of Davis's is to be taken without many grains of salt. I suppose he thought the man to whom he said it would not take it too literally.

Judge Davis was a man of very warm sympathy. He liked to give accounts of cases he had tried, sitting in equity, or I think sometimes in divorce cases, where he had invented a curious rule of law, or had stretched his discretion, to save some poor widow, or wronged wife, or suffering orphan, a share of an estate to which their legal title was in considerable doubt. If he were led by his sympathies ever to be an unjust Judge, at least the poor widow had no need to worry him by her importunities. He avenged her speedily the first time.

He was a Republican before and during the War, and a steadfast supporter of Lincoln's policies. His opinions had been in general in support of the liberal construction of the Constitution, under which the National powers had been exerted to put down the Rebellion.

He was elected to the Senate after resigning his place on the Supreme Court Bench, by a union of Democrats of the Illinois Legislature with a few discontented Republicans,

defeating Logan. When he came to the Senate he preserved his position as an Independent. He did not go into the caucuses of either party. He had no sympathy with the more radical element among the Democrats. Yet he liked to be considered a special representative of the Labor Party in the country. I think he hoped that there might be a union or coalition of the Democrats and Labor men in the Presidential election of 1880, and that in that way he would be elected President.

His seat was on the Republican side. When there was a division, if he voted with the Republicans, he sat in his seat, or rose in his seat if there was a rising vote; but when, as not unfrequently happened, he voted with the Democrats, he always left his seat and went over to the Democratic side of the Chamber, and stood there until his name was called, or his vote counted. As he passed Conkling one day in one of these movings, Conkling called out: "Davis, do you get travel for all these journeys?"

When the Senate came together in special session, on Monday, October 10, 1881, it was found that the Democrats had a majority of two. One Senator only was present from Rhode Island, one only from Nevada, and the two newly elected Senators from New York had not been admitted to their seats. A motion of Mr. Edmunds that the oath prescribed by law be administered to the Senators from New York was laid on the table. On that vote the Democrats had a majority of two, Mr. Davis voting with the Republicans. On a resolution that Thomas F. Bayard, a Senator from Delaware, be chosen President pro tempore, Mr. Edmunds moved an amendment by striking it all out and inserting a resolution that the oath of office be administered to Mr. Miller and Mr. Lapham of New York, and Mr. Aldrich of Rhode Island, by Mr. Henry B. Anthony, the senior Senator of the Senate. That resolution was lost by a vote of thirty-four to thirty-three, Mr. Davis voting with the Republicans. Mr. Edmunds then moved to add to the resolution declaring Mr. Bayard President pro tempore, the the words "for this day." That was lost by one vote, Mr.

Davis voting with the Republicans. After several other unsuccessful attempts, Mr. Bayard was chosen President pro tempore, the resolution being carried by a majority of two votes, Mr. Davis not voting. Thereupon Mr. Bayard accepted the office in a speech, brief, but which clearly implied an expectation on his part to continue in it for a considerable period of time.

The next day, being Tuesday, October 11, Mr. Aldrich of Rhode Island, Mr. Lapham and Mr. Miller of New York, were admitted to their seats. This left a majority of two for the Republicans, if Mr. Davis acted with them, and the two parties tied, if Mr. Davis acted with the Democrats.

The Democrats had succeeded in electing their President pro tempore, whom the Republicans could not displace, and there was left before the body a struggle for the organization of the Senate, including the executive officers and the Committees, in which no progress could be made without Mr. Davis's help.

That being the condition of things, the Republicans called a caucus, in which Senator Logan, Mr. Davis's colleague, appeared with a message from Mr. Davis. The substance of the message was that Mr. Davis thought that the Republicans ought to leave the organization, so far as the executive offices were concerned, in the hands of the Democrats, who had elected the existing officers during the previous Congress, and that the Committees should be appointed with Republican majorities. Mr. Logan further announced that if the Republicans should see fit to elect Mr. Davis President pro tempore, he would vote in accordance with that understanding. Mr. Ingalls of Kansas and I were quite unwilling to accede to this arrangement. But at that time the Committees lasted only for the session for which they were appointed. So the Senate could transact no business of importance, and the office of Secretary, and Sergeant-at-Arms, and Door-keeper, and all the important offices of the Senate would continue in Democratic hands. So, very reluctantly, we yielded to the desire of our associates. Whereupon a resolution was adopted continuing the standing Committees for the session as they had come over from the last

session, and indeed from the session before, Mr. Davis voting with the Republicans. This vote was passed by a majority of two votes. General Logan then introduced the following resolution: That David Davis, a Senator from Illinois, is hereby chosen President pro tempore of the Senate. This was also passed by a majority of two votes, Mr. Davis and Mr. Bayard not voting. Mr. Bayard descended from the elevation he had occupied for so short a time, amid general laughter in which he good-naturedly jointed, and Mr. Davis ascended the throne. He made a brief speech which began with this sentence: "The honor just conferred upon me comes, as the seat in this body which I now hold did, without the least expectation on my part. If it carried any party obligation, I should be constrained to decline this high compliment. I do not accept it as a tribute to any personal merit, but rather as a recognition of the independent position which I have long occupied in the politics of the country."

So, it was Mr. Davis's fortune to hold in his hands the determination between the two parties of the political power of the country, on two very grave occasions. But for his choice as Senator from Illinois, he would have been on the Electoral Commission. I do not think, in so important a matter, that he would have impaired his great judicial fame by dissenting from the opinion which prevailed. But if he had, he would have given the Presidency to Mr. Tilden. And again, but for the arrangement by which he was elected to the Presidency of the Senate, the Republicans would not have gained control, so far as it depended on the Committees.

He did not make a very good presiding officer. He never called anybody to order. He was not informed as to parliamentary law, or as to the rules of the Senate. He had a familiar and colloquial fashion, if any Senator questioned his ruling, of saying, "But, my dear sir"; or, "But, pray consider." He was very irreverently called by somebody, during a rather disorderly scene in the Senate, where he lost control of the reins, the "Anarch old."

But, after all, the office of presiding over the Senate is

commonly not of very great consequence. It is quite important that the President of the Senate should be a pleasant-natured gentleman, and the gentleman in the Senator will almost always respond to the gentleman in the Chair. Senators do not submit easily to any vigorous exercise of authority. Vice-Presidents Wheeler, Morton and Stevenson, and more lately, Mr. Frye, asserted their authority with as little show of force as if they were presiding over a company of guests at their own table. But the order and dignity of the body have been preserved.

Mr. Davis's fame must rest on his long and faithful and able service as a wise, conscientious and learned Judge. In writing these recollections, I have dwelt altogether too much on little foibles and weaknesses, which seem to have something amusing in them, and too little, I am afraid, on the greater qualities of the men with whom I have served. This is perhaps true as to David Davis. But I have said very much what I should have said to him, if I had been chatting with him, as I very frequently did, in the cloak room of the Senate.

He was a man of enormous bulk. No common arm chair would hold him. There is a huge chair, said to have been made for Dixon H. Lewis of Alabama, long before the Civil War, which was brought up from the basement of the Capitol for his use. The newspaper correspondents used to say that he had to be surveyed for a new pair of trousers.

I was one night in the Chair of the Senate when the session lasted to near three o'clock in the morning. It was on the occasion of the passage of the bill for purchasing silver. The night was very dark and stormy and the rain came down in torrents. Just before I put the final question I sent a page for my coat and hat, and, as soon as I declared the Senate adjourned, started for the outer door. There were very few carriages in waiting. I secured one of them and then invited Davis and his secretary and another Senator, when they came along, to get in with me. When we stopped to leave Judge Davis at the National Hotel, where he lived, it was found impossible to get the door of the hack

open. His great weight pressed it down, so that the door was held tight as in a vise. The hackman and the porters pulled on the outside, and the passengers pushed and struggled from within; but in vain. After fifteen or twenty minutes, it occurred to some one that we within should all squeeze ourselves over to one side of the carriage, and those outside use their whole strength on the opposite door. This was successful. We escaped from our prison. As Davis marched into the hotel the hackman exclaimed, as he stared after him: "By God, I should think you was eight men."

Eli Saulsbury of Delaware was a very worthy Southern gentleman of the old school, of great courage, ability and readiness in debate, absolutely devoted to the doctrines of the Democratic Party, and possessed of a very high opinion of himself. I knew him very intimately. He was Chairman of the Committee on Privileges and Elections, and was a member of it when I was Chairman. We went to New Orleans together to make what was called the Copiah investigation. We used to be fond of talking with each other. He always had a fund of pleasant anecdotes of old times in the South. He liked to set forth his own virtues and proclaim the lofty morality of his own principles of conduct, a habit which he may have got from his eminent colleague, Senator Bayard, who sometimes announced a familiar moral principle as if it were something the people who listened to him were hearing for the first time, and of which he in his youth had been the original discoverer. I once told Saulsbury, when he was discoursing in that way, that he must be descended from Adam by some wife he had before Eve, who had nothing to do with the fall. He was fond of violently denouncing the wicked Republicans on the floor of the Senate, and in Committee. But his bark was worse than his bite.

When the Kellogg case was investigated by the Committee on Privileges and Elections, when I first entered the Senate, Mr. Saulsbury rose in the first meeting of the Committee and proceeded to denounce his Republican associates. He declared they came there with their minds made up on the case, a condition of mind which was absolutely unfit for a

grave judicial office, in the discharge of which all party considerations and preconceived opinions should be banished. He said we should have open minds to hear the arguments and the evidence to be introduced, as if it were a solemn trial in a court of justice. When he was in the midst of a very eloquent and violent philippic, the Chairman of the Committee, Bainbridge Wadleigh, said quietly, "Brother Saulsbury, haven't you made up your mind?" Mr. Saulsbury stopped a moment, said, "Yes, I have made up my mind," broke into a roar of laughter, and sat down.

He was a confirmed and incorrigible bachelor. There was in New Orleans, when we were there, a restaurant famous all over the country, kept by a very accomplished widow. The members of the Committee thought it would be a good thing if we could have such a restaurant as that in Washington. We passed a unanimous vote requesting Mr. Saulsbury to marry the widow, and bring her to Washington, as a matter of public duty. He took the plan into consideration, but nothing came of it. Some mischievous newspaper correspondent circulated a report, which went through the country, that Mr. Saulsbury was very much in love with a lady in Washington, also a charming widow. It was said that he visited her every evening; that she had a rare gift of making rum punch; that she always gave him a glass, and that afterward, although he was exceedingly temperate in such things, he fell on his knees, offered himself to the widow, and was refused; and that this ceremony had been repeated nightly for many years. I once mentioned this story to him, and he didn't deny it. But, on the other hand, he didn't admit it.

When he was chosen to the Senate he had two brothers who competed with him for the office. One of them was then Senator. The Senate had a good deal of difficulty in getting through its business before the 4th of March, when the new Administration came in, and the term of the elder Mr. Saulsbury ended. There had been an all-night session, so some of the Senators had got worn out and overcome by the loss of sleep. Just before twelve o'clock at noon Senator Willard Saulsbury put his head down on his desk and fell

asleep. The Senate was called to order again for the new session, the roll called, and Mr. Saulsbury's brother Eli had been sworn in. Willard waked up, rose, and addressed the Chair. The presiding officer quietly replied: "The gentleman from Delaware is no longer a member of the Senate." Whereupon he quietly withdrew.

Matthew C. Butler of South Carolina was another Southern Democrat, fiery in temper, impatient of control or opposition, ready to do battle if anybody attacked the South, but carrying anger as the flint bears fire. He was zealous for the honor of the country, and never sacrificed the interest of the country to party or sectional feeling. He was quite unpopular with the people of the North when he entered the Senate, partly from the fact that some of his kindred had been zealous Southern champions before the War, at the time of some very bitter sectional strifes, and because he was charged with having been the leader and counsellor in some violent and unlawful conduct toward the colored people after the War. I have not investigated the matter. But I believe the responsibility for a good deal of what was ascribed to him belonged to another person of the same name. But the Republicans in the Senate came to esteem and value Senator Butler very highly. He deserves great credit, among other things, for his hearty and effective support of the policy of enlarging the Navy, which, when he came into public life, was feeble in strength and antiquated in construction. With his departure from the Senate, and that of his colleague, General Wade Hampton, ended the power in South Carolina of the old gentry who, in spite of some grave faults, had given to that State an honorable and glorious career. When the Spanish War broke out, General Butler was prompt to offer his services, although he had lost a leg in the Civil War.

James B. Beck came into the House of Representatives when I did, in 1869. He served there for six years, was out of public life for two years, and in 1877 came to the Senate when I did.

I do not think any two men ever disliked each other more than we did for the first few years of our service. He hated with all the energy of his Scotch soul,—the *perfervidum ingenium Scotorum*,—everything I believed. He thought the New England Abolitionists had neither love of liberty nor care for the personal or political rights of the negro. Indeed he maintained that the forefathers of the New England abolitionists were guilty of bringing slavery into this continent. He hated the modern New England theological heresies with all the zeal of his Scotch Presbyterian forbears. He hated the Reconstruction policy, which he thought was inspired by a desire to put the white man in the place where the negro had been. He hated with all the energy of a free-trader the protection policy, which he deemed the most unscrupulous robbery on a huge scale. He considered the gold standard a sort of power press with which the monopolists of the East were trying to squeeze the last drop of blood out of the farmers and workingmen of the South. He thought the public debt was held by men who had paid very little value for it, and who ought to be paid off in the same cheap money which was in vogue when it was originally incurred. He hated New England culture and refinement, which he deemed a very poor crop coming from a barren intellectual soil. He regarded me, I think, as the representative, in a humble way, of all these things, and esteemed me accordingly.

I was not behindhand with him, although I was not quite so frank, probably, in uttering my opinions in public debate. But I found out, after a little while, that the Northern men who got intimate with him on committees, or in private intercourse, found him one of the most delightful companions, fond of poetry, especially of Burns, full of marvellous stores of anecdotes, without a jot of personal malice, ready to do a kindness to any man, and easily touched by any manifestation of kindly feeling toward him, or toward his Southern neighbors and constituents. My colleague, Mr. Dawes, served with him on some of the great committees of the Senate and in the House, and they established a very close and intimate friendship. I came to know Mr. Beck

later. But he had changed his feeling toward me, as I had toward him, long before either found out what the other was thinking about. So one day—it was the time of Mr. Dawes's last reelection to the Senate—he came over to my side of the Chamber, took my hand and said with great emotion: "I congratulate you on the reelection of Mr. Dawes. He is one of my dearest friends, and one of the best men I ever knew in my life." And then, as he turned away, he added: "Mr. Hoar, I have not known you as well. But I shall say the same thing about you, when your reelection takes place."

He had a powerful and vigorous frame, and a powerful and vigorous understanding. It seemed as if neither could ever tire. He used to pour out his denunciation of the greed of the capitalists and monopolists and protectionists, with a fund of statistics which it seemed impossible for the industry of any man to have collected, and at a length which it would seem equally impossible for mortal man to endure. He was equally ready on all subjects. He performed with great fidelity the labor of a member of the Committee on Appropriations, first in the House, and afterward in the Senate. I was the author of a small jest, which half amused and half angered him. Somebody asked in my hearing how it was possible that Mr. Beck could make all those long speeches, in addition to his committee work, or get time for the research that was needed, and how it was ever possible for his mind to get any rest; to which I answered, that he rested his intellect while he was making his speeches. But this was a sorry jest, with very little foundation in fact. Anybody who undertook to debate with him, found him a tough customer. He knew the Bible—especially the Psalms of David—and the poems of Burns, by heart. When he died I think there was no other man left in the Senate, on either side, whose loss would have occasioned a more genuine and profound sorrow.

When I came into the Senate one of the most conspicuous characters in American public life was Oliver P. Morton of Indiana. He had been Governor of Indiana during the

War. There was a large and powerful body of Copperheads among the Democrats in that State. They were very different from their brethren in the East. They were ugly, defiant and full of a dangerous activity. Few other men could have dealt with them with the vigor and success of Governor Morton. The State at its elections was divided into two hostle camps. If they did not resort to the weapons of war, they were filled with a hatred and bitterness which does not commonly possess military opponents. Gov. Morton, in spite of the great physical infirmity which came upon him before the War ended, held the State in its place in the Union with an iron hand. When he came to the Senate he found there no more powerful, brave or unyielding defender of liberty. He had little regard for Constitutional scruples. I do not think it should be said that he would willingly violate his oath to support the Constitution. But he believed that the Constitution should be interpreted in the light of the Declaration of Independence, so as to be the law of life to a great, powerful and free people. To this principle of interpretation, all strict or narrow criticism, founded on its literal meaning, must yield.

His public life was devoted to two supreme objects:

1. Preservation of the Constitutional authority of the Government.

2. The maintenance by that authority of the political and personal rights of all citizens, of all races and classes.

As I have said, he interpreted the Constitution in a manner which he thought would best promote these objects. He had little respect for subtilties or refinements or scruples that stood in the way.

He was for going straight to his object. When the Hayes and Tilden contest was up, he was for having the President of the United States put Hayes and Wheeler in power by using all the National forces, military and other, that might be needful. He was a member of the Committee that framed the bill for the Electoral Commission, but refused to give it his support.

I made a very pleasant acquaintance with him during the sessions of that Committee. I suppose it was due to his

kindly influence that I was put upon the Committee of Privileges and Elections, of which he was Chairman, when I entered the Senate. But he died in the following summer, so I never had an opportunity to know him better. He was a great party leader. He had in this respect no superior in his time, save Lincoln alone.

It was never my good fortune to be intimate with Zachariah Chandler. But I had a good opportunity for observing him and knowing him well. I met him in 1854, at the Convention held in Buffalo to concert measures for protecting and promoting Free State immigration to Kansas. He was the leading spirit of that Convention, full of wisdom, energy and courage. He was then widely known throughout the country as an enterprising and successful man of business. When I went into the House of Representatives, in 1869, Mr. Chandler was already a veteran in public life. He had organized and led the political forces which overthrew Lewis Cass and the old Democratic Party, not only in Michigan but in the Northwest. He had been in the Senate twelve years. Those twelve years had been crowded with history. The close of the Administration of Buchanan, the disruption of the Democratic Party at Charleston, the election and inauguration of Lincoln, the putting down of the Rebellion, the organizing, directing and disbanding of great armies, the great amendments to the Constitution, and the contest with Andrew Johnson, had been accomplished. The reconstruction of the rebellious States, the payment of the public debt, keeping the national faith under great temptation, reconciliation and the processes of legislation and administration under the restraints which belonged to peace, were well under way. In all these Chandler bore a large part, and a part wise, honest, powerful and on the righteous side. I knew him afterward in the Department of the Interior. He was, in my judgment, the ablest administrative officer without an exception who has been in any executive department during my public life. His sturdy honesty, his sound, rapid, almost instinctive,

judgment, his tact, his business sense, his love of justice, were felt in every fibre and branch of the great Interior Department, then including eight great bureaus each almost important enough to be a Department by itself.

The humblest clerk who complained of injustice was sure to be listened to by the head of that great Department, who, with his quick sympathy and sound judgment, would make it certain that right would be done.

Chandler has little respect for the refinements of speech or for literary polish. He could not endure Mr. Sumner's piling precedent upon precedent and quotation upon quotation, and disliked his lofty and somewhat pompous rhetoric. He used sometimes to leave his seat and make known his disgust in the cloak room, or in the rear of the desks, to visitors who happened to be in the Senate Chamber. But he was strong as a rock, true as steel, fearless and brave, honest and incorruptible. He had a vigorous good sense. He saw through all the foolish sophistries with which the defenders of fiat money, or debased currency, sought to defend their schemes. He had no mercy for treason or rebellion or secession. He was a native of New Hampshire. He had the opinions of New England, combined with the directness and sincerity and energy of the West. He had a very large influence in making the State of Michigan another New England.

He was a sincere, open-hearted, large-hearted and affectionate man. He was the last man in the world of whom it would be proper to speak as a member of an intrigue or cabal. His strategy was a straightforward, downright blow. His stroke was an Abdiel stroke,

> This greeting on thy impious crest receive.

His eloquence was simple, rugged, direct, strong. He had a scanty vocabulary. It contained no word for treason but "treason." He described a lie by a word of three letters. The character of his speech was that which Plutarch ascribes to Demosthenes. He was strongly stirred by simple and great emotions—love of country, love of free-

dom, love of justice, love of honesty. He hated cant and affectation.

I believe he was fond of some good literature, but he was very impatient of Mr. Sumner's load of ornament and quotation. He had little respect for fine phrases or for fine sentiment or the delicacies of a refined literature. He was rough and plain-spoken. I do not think he would ever have learned to care much for Tennyson or Browning. But the Psalms of David would have moved him.

I suppose he was not much of a civil service reformer. He expected to rule Michigan, and while he would have never bought or bribed an antagonist by giving him an office, he would have expected to fill the public offices, so far as he had his way, by men who were of his way of thinking. He was much shocked and disgusted when Judge Hoar wanted to inquire further concerning a man whom he had recommended for the office of Judge of the Circuit Court. The Judge said something about asking Reuben Rice, a friend he highly respected who had lived long in Michigan. Chandler spoke of it afterward and said: "When Jake Howard and I recommended a man, the Attorney-General wanted to ask a little railroad fellow what he thought of him."

He joined with Conkling and Carpenter and Edmunds in their opposition to the confirmation of Judge Hoar. He came to know the Judge better afterward and declared that he himself had made a mistake.

He was a strong pillar of public faith, public liberty, and of the Union. He had great faults. But without the aid of the men whom he could influence and who honored him, and to whom his great faults were as great virtues, the Union never would have been saved, or slavery abolished, or the faith kept. I hold it one of the chief proofs of the kindness of divine Providence to the American people in a time of very great peril that their leaders were so different in character. They are all dead now—Sumner and Fessenden and Seward and Wilson and Chase and Stanton and Grant and Sherman and Sheridan and Chandler,—a circle

in which Lincoln shines as a diamond in its setting. Not one of them could have been spared.

It is proper that I should add that I have known very well a good many of the most eminent citizens of Michigan. This list includes Governor and Senator Henry P. Baldwin, and Judge Christiancy, who displaced Chandler in the Senate. I have frequently heard them speak of Mr. Chandler. Without an exception I believe they held him in profound esteem and honor. They were proud of him as the most eminent citizen of their State which has been prolific of strong men, speaking of him as we do of Sumner or Webster.

Mr. Chandler was a remarkable example of what I have often noticed, how thoroughly the people come to known the true character of a public man, even when the press of the whole country unite to decry him. I suppose there was not a paper in New England, Republican or Democratic, that spoke kindly of Zach. Chandler for many years. He was disliked by the Democratic press for his unyielding Republicanism. He was disliked by the Republican press that supported Charles Sumner, for his opposition to him. He was represented as a coarse, ignorant and unscrupulous man. In the campaign of 1880 I sent him a telegram, asking him to visit me in Massachusetts and make a few speeches in our campaign. I added: "You will be received with unbounded respect and honor." The telegram was an astonishment and revelation to the old man. He had no idea that the people of New England had that opinion of him. Governor Baldwin told me that he happened to be passing Chandler's house just as he received my message. Chandler knocked on the window for the Governor to come in. He had the telegram in his hand when the Governor entered, and exclaimed: "Look at that; read that; and I did not graduate at Harvard College either." His colleague, Senator Ferry, alludes to his gratification at the receipt of this message, in his obituary delivered in the Senate. He spoke in Worcester and Boston and Lowell, and in one or two other places. His passage through the State was a triumphal march. He was received as I had pre-

dicted. In Worcester we had no hall large enough to hold the crowds that thronged to see him, and were compelled to have the meeting in the skating-rink. Chandler went back to Michigan full of satisfaction with his reception. I think he would have been among the most formidable candidates for the Presidency at the next election, but for his sudden death. If he had been nominated, he would undoubtedly have been elected. But, a short time after, he was one morning found dead in his bed at Chicago. In his death a great and salutary force was subtracted from the public life of the country, and especially from the public life of the great State to whose history he had contributed so large and noble a part.

I have found among some old notes a few sentences with which I presented him to a mighty audience in my own city:

"Worcester is here in person to-night to give a welcome from the heart of Massachusetts to the Senator of Michigan. If our guest had nothing of his own to recommend him, it would be enough to stir the blood of Massachusetts that he represents that honored State, another New England in her interests and in her opinions. With her vast forests, her people share with Maine, our own great frontier State, those vast lumber interests, for which it has been our own policy to demand protection. Daughter of three mighty lakes, she takes a large share in our vast inland commerce. Her people are brave, prosperous and free. They have iron in their soil, and iron in their blood. Great as is her wealth and her material interest, she shares with Massachusetts the honor of being among the foremost of American States in educational conditions. Massachusetts is proud to—

Claim kindred there, and have the claim allowed.

"But our guest brings to us more than a representative title to our regard. The memory of some of us goes back to the time when, all over the great free Northwest, the people seemed to have forgotten to what they owed their own prosperity. The Northwest had been the gift of Free-

dom to the Republic on her birthday. In each of her million homes dwells Liberty, a perpetual guest. But yet that people in Illinois and Michigan and Indiana and Ohio seemed for a time to have forgotten their own history, and to be unworthy of their fair and mighty heritage. They had been the trusted and sturdy allies of the slave power in the great contest for the possession of the vast territory between the Mississippi and the Pacific. The old leaders, Douglas in Illinois and Cass in Michigan, who ruled those States with an almost despotic power, sought to win the favor of the South for their aspirations for the Presidency by espousing the doctrine of squatter sovereignty, under which the invaders from the slave States hard by, without even becoming residents in good faith, might fix forever the character of that fair domain. At that time a young knight, a figure of manly courage and manly strength, came forward to challenge General Cass to a struggle for the supremacy in Michigan. It was our guest of this evening. As you all know, the young champion vanquished the veteran warrior in a trial by battle for the freedom of the Continent. I met him at Buffalo in 1854, in the height of the conflict, at a gathering of a few gentlemen to concert measures for sustaining, aiding and arming the Free State immigrants in Kansas. He was the leader and the life of the company. Many of those immigrants had gone from Worcester County, where the Emigrants' Aid Society was first devised by Edward Hale and organized by Eli Thayer. I met him again when I went to Washington in 1869. I found him among the foremost of the leaders of the Senate. He had gone through the great period of the Civil War, and the period before the Civil War. He had stood by Lincoln in that time of trouble. He had stood firm as a rock for the financial integrity of the country. Afterward it was my good fortune to know a good deal of his administration of the great Department of the Interior. I have never known, or known of, a better administration of any Department from the beginning of the Government, than his of that great office, with its eight important bureaus.

"He brings to you to-night the news from Maine and the news from Ohio. He can tell you what the Republicans are thinking of and are doing all over the country, as they prepare themselves for the great contest beginning this year, to end, as we hope and believe, with a great Republican victory in 1880."

John James Ingalls was in many respects one of the brightest intellects I ever knew. He was graduated at Williams in 1855. One of the few things, I don't know but I might say the only thing, for which he seemed to have any reverence was the character of Mark Hopkins. He was a very conspicuous figure in the debates in the Senate. He had an excellent English style, always impressive, often on fit occasions rising to great stateliness and beauty. He was for a good while President pro tempore of the Senate, and was the best presiding officer I have ever known there for conducting ordinary business. He maintained in the chair always his stately dignity of bearing and speech. The formal phrases with which he declared the action of the Senate, or stated questions for its decision, seemed to be a fitting part of some stately ceremonial. He did not care much about the principles of parliamentary law, and had never been a very thorough student of the rules. So his decisions did not have the same authority as those of Mr. Wheeler or Mr. Edmunds or Mr. Hamlin.

I said to him one day, "I think you are the best presiding officer I ever knew. But I do not think you know much about parliamentary law." To which he replied: "I think the sting is bigger than the bee."

He never lost an opportunity to indulge his gift of caustic wit, no matter at whose expense. When the morning hour was devoted to acting upon the reports of committees in cases of private claims, or pensions, he used to look over, the night before, the reports which were likely to be on the next day's calendar. When a bill was reached he would get up and make a pretty sharp attack on the measure, full of wit and satire. He generally knew very little about it.

When he got through his speech he would disappear into the cloak room and leave the Senator who had reported the bill, and had expected to get it through without any difficulty—the case being very often absolutely clear and just—to spend his time in an elaborate and indignant explanation.

Mr. Ingalls disliked very much the scrupulous administrations of Hayes and Harrison. He yielded to the craze for free silver which swept over parts of the West, and in so doing lost the confidence of the people to whose momentary impulse he had given way. If he had stood stanchly on the New England doctrines and principles in which he was educated, and which I think he believed in his heart, he would have kept his State on the right side. Shortly before the campaign in which he was defeated for Senator, he said in the cloak room, in my hearing, that he did not propose to be a martyr. He was the author of a beautiful poem, entitled "Opportunity," which I think should accompany this imperfect sketch.

OPPORTUNITY.

Master of human destinies am I!
Fame, love and fortune on my footsteps wait,
Cities and fields I walk; I penetrate
Deserts and seas remote, and passing by
Hovel and mart and palace—soon or late
I knock unbidden once at every gate!

If sleeping, wake—if feasting, rise before
I turn away. It is the hour of fate,
And they who follow me reach every state
Mortals desire, and conquer every foe
Save death; but those who doubt or hesitate,
Condemned to failure, penury and woe,
Seek me in vain and uselessly implore.
I answer not, and I return no more!

Ingalls was a native of Haverhill, Massachusetts. Somewhere about 1880, being in Boston, he gave an interview to one of the papers in which he commented very severely on the want of able leadership in the Republican Party in

Massachusetts. I suppose the criticism was directed at me, although he did not mention my name. In 1880 Massachusetts gave a Republican majority of 48,697, and Kansas a Republican majority of 41,897. Mr. Ingalls's leadership in Kansas had been manifested very largely in the control of official patronage. He said in the Senate that he and his colleague sought to get rid of all Democrats in office in Kansas as with a fine-toothed comb.

So far as I had been concerned, and so far as the Republican leaders in Massachusetts had been concerned, with the exception of General Butler, a different policy had been adopted. We had never attempted to make a political instrument of official patronage. There had never been anything like a "boss" or a machine. Our State politics had been conducted, and our candidates for office nominated, after the old fashion of a New England town meeting. When an election approached, or when a great measure or political question was to be decided, men who were influential consulted together informally, ascertained the public sentiment, deferred to it, if it seemed to be right, and did what they could to persuade it and guide it by speech and discussion in the press, if it needed guidance, and trusted, hardly ever in vain, to the intelligence of the people for the result. I do not know but the diminution of the comparative importance of the towns, and the change of the Commonwealth and cluster of cities and manufacturing villages, and the influx of other elements than that of the old New England stock may not bring about, or if indeed it is not already bringing about, a different conduct of affairs. But I have never adopted any other method, and I have never desired that my public life or influence should survive the introduction of any other method in Massachusetts. Mr. Ingalls's methods and mine have been tested by their results. The people of Kansas are largely of Massachusetts origin. I believe if her leading men had pursued Massachusetts methods she would to a great extent have repeated Massachusetts history. Our method of political management and control has been vindicated by the fact

that the Commonwealth has been kept true to its ancient faith, except in a very few years when accidental causes have caused the election of a Democratic Governor. Those elections were protests against an attempt to depart from the old-fashioned method of ascertaining the will of the people in selecting Republican candidates. Massachusetts has kept the succession of United States Senators unbroken, and has had a Republican delegation in the House ever since the party came into power, with two exceptions. She has in general maintained her great Republican majority. On the other hand Kansas has been represented in turn by Democrats and Populists and Socialists and the advocates of fiat money and free silver.

Senator Cockrell of Missouri entered the Senate two years before I did, and has been there ever since. He is a man of great sincerity and integrity, of great influence with his own party, and highly esteemed by his Republican associates. He can generally be depended upon for a fair vote, certainly always for an honest and incorruptible vote, and to do full justice to a political opponent. He used for many years to prepare one speech, in each session, in which he went over the political issues of the two parties in a violent and extreme fashion. He would give us the whole history of the year and point out the imperfections and weakness and atrocity of the party in power in a most unsparing fashion. This speech he would frank home to Missouri. He seemed to think his duty as a Democratic politician was done, and he would betake himself to statesmanship the rest of the year. I think he has of late discontinued that practice. I do not want what I have said to be taken too seriously. There is scarcely a member of either side in either House who would be more missed from the public service, if anything were to happen to him, than Mr. Cockrell, nor for whom all men have a kindlier and more affectionate regard. Like Mr. Allison, he knows the mechanism of administration and legislation through and through. He would be entirely competent to fill a chair of public administration

in any college, if, as I hope may be done, such chairs shall be established.

When Justin Morrill died, not only a great figure left the Senate Chamber—the image of the ancient virtue of New England—but an era in our national history came to an end. He knew in his youth the veterans of the Revolution and the generation who declared independence and framed the Constitution, as the young men who are coming to manhood to-day know the veterans who won our victories and the statesmen who conducted our policy in the Civil War. He knew the whole history of his country from the time of her independence, partly from the lips of those who had shaped it, partly because of the large share he had in it himself. When he was born Washington had been dead but ten years. He was sixteen years old when Jefferson and Adams died. He was twenty-two years old when Charles Carroll died. He was born at the beginning of the second year of Madison's Presidency, and was a man of twenty-six when Madison died. In his youth and early manhood the manners of Ethan Allen's time still prevailed in Vermont, and Allen's companions and comrades could be found in every village. He was old enough to feel in his boyish soul something of the thrill of our great naval victories, and of the victory at New Orleans in our last war with England, and, perhaps, to understand something of the significance of the treaty of peace of 1815. He knew many of the fathers of the country as we knew him. In his lifetime the country grew from seventeen hundred thousand to thirty-six hundred thousand square miles, from seventeen States to forty-five States, from four million people to seventy-five million. To the America into which he was born seventeen new Americas had been added before he died.

A great and healthful and beneficent power departed from our country's life. If he had not lived, the history of the country would have been different in some very important particulars; and it is not unlikely that his death changed the result in some matters of great pith and moment, which are to affect profoundly the history of the country in the future. The longer I live, the more carefully

I study the former times or observe my own time, the more I am impressed with the sensitiveness of every people, however great or however free, to an individual touch, to the influence of a personal force. There is no such thing as a blind fate; no such thing as an overwhelming and pitiless destiny. The Providence that governs this world leaves nations as He leaves men, to work out their own destiny, their own fate, in freedom, as they obey or disobey His will.

> Man is his own star; and the soul that can
> Render an honest and a perfect man
> Commands all life, all influence, all fate;
> Nothing to him falls early or too late.
> Our acts our angels are, or good or ill;
> Our fatal shadows that walk by us still.

It is wonderful what things this man accomplished alone, what things he helped others to accomplish, what things were accomplished by the political organization of which he was a leader, which he bore a very large part in accomplishing.

Mr. Morrill's public life was coincident with the advent of the Republican Party to National power. His first important vote in the House of Representatives helped to elect Mr. Banks to the office of Speaker, the first National victory of a party organized to prevent the extension of slavery. From that moment, for nearly half a century, Vermont spoke through him in our National Council, until, one after another, almost every great question affecting the public welfare has been decided in accordance with her opinion.

It would be impossible, even by a most careful study of the history of the country for the last forty years, to determine with exactness what was due to Mr. Morrill's personal influence. Many of the great policies to which we owe the successful result of the Civil War—the abolition of slavery, the restoration of peace, the new and enlarged definition of citizenship, the restoration of order, the establishment of public credit, the homestead system, the foundation and admission of new States, the exaction of apology

and reparation from Great Britain, the establishment of the doctrine of expatriation, the achievement of our manufacturing independence, the taking by the United States of its place as the foremost nation in the world in manufacture and in wealth, as it was already foremost in agriculture, the creation of our vast domestic commerce, the extension of our railroad system from one ocean to the other—were carried into effect by narrow majorities, and would have failed but for the wisest counsel. When all these matters were before Congress there may have been men more brilliant or more powerful in debate. But I can not think of any wiser in counsel than Mr. Morrill. Many of them must have been lost but for his powerful support. Many owed to him the shape they finally took.

But he has left many a personal monument in our legislation, in the glory of which no others can rightfully claim to rival him. To him is due the great tariff, that of 1861, which will always pass by his name, of which every protective tariff since has been but a modification and adjustment to conditions somewhat changed, conditions which in general, so far as they were favorable, were the result of that measure. To him is due the first antipolygamy bill, which inaugurated the policy under which, as we hope and believe, that great blot on our National life has been forever expunged. The public buildings which ornament Washington, the extension of the Capitol grounds, the great building where the State, War and Navy Departments have their home, the National Museum buildings, are the result of statutes of which he was the author and which he conducted from their introduction to their enactment. He was the leader, as Mr. Winthrop in his noble oration bears witness, of the action of Congress which resulted in the completion of the Washington Monument after so many years' delay. He conceived and accomplished the idea of consecrating the beautiful chamber of the old House of Representatives as a Memorial Hall where should stand forever the statues of the great men of the States. So far, of late, as the prosperity and wise administration of the Smithsonian Institution has depended upon the action of Congress it has been due to

him. Above all, the beautiful National Library building, unequalled among buildings of its class in the world, was in a large measure the result of his persistent effort and powerful influence, and stands as an enduring monument to his fame. There can be no more beautiful and enviable memorial to any man than a portrait upon the walls of a great college in the gallery where the figures and faces of its benefactors are collected. Mr. Morrill deserves this expression of honor and gratitude at the hands of at least one great institution of learning in every American State. To his wise foresight is due the ample endowment of Agricultural or Technical colleges in every State in the Union.

He came from a small State, thinly settled—from a frontier State. His advantages of education were those only which the public schools of the neighborhood afforded. All his life, with a brief interval, was spent in the same town, nine miles from any railroad, except when absent in the public service. But there was no touch of provincialism in him. Everything about him was broad, national, American. His intellect and soul, his conceptions of statesmanship and of duty expanded as the country grew and as the demands upon him increased. He was in every respect as competent to legislate for fifty States as for thirteen. He would have been as competent to legislate for an entire continent so long as that legislation were to be governed, restrained, inspired by the principles in which our Union is founded and the maxims of the men who builded it.

He was no dreamer, no idealist, no sentimentalist. He was practical, wise, prudent. In whatever assembly he was found he represented the solid sense of the meeting. But still he never departed from the loftiest ideals. On any question involving righteousness or freedom you would as soon have had doubt of George Washington's position as of his. He had no duplicity, no indirection, no diplomacy. He was frank, plain-spoken, simple-hearted. He had no faculty for swimming under water.

> His armor was his honest thought
> And simple truth his utmost skill.

The Apostle's counsel to his young disciple will serve for a lifelike portraiture of Justin Morrill:

"Be sober-minded:

"Speak thou the things which become sound doctrine:

"In all things showing thyself a pattern of good works: in doctrine shewing uncorruptness, gravity, sincerity:

"Sound speech that can not be condemned; that he that is of the contrary part may be ashamed, having no evil thing to say of you."

If you wish to sum up the quality of Justin Morrill in a single word, mind, body, and soul, that word would be Health. He was thoroughly healthy, through and through, to the center of his brain, to his heart's core. Like all healthy souls, he was full of good cheer and sunshine, full of hope for the future, full of pleasant memories of the past. To him life was made up of cheerful yesterdays and confident to-morrows. But with all his friendliness and kindliness, with all his great hold upon the love and respect of the people, with all his large circle of friends, with all his delight in companionship and agreeable converse, he dared to be alone. He found good society enough always, if no other were at hand, in himself. He was many times called upon to espouse unpopular causes and unpopular doctrines. From the time when in his youth he devoted himself to the anti-slavery cause, then odious in the nostrils of his countrymen, to the time when in the last days of his life he raised his brave voice against a policy upon which the majority of his political associates seemed bent, he never yielded the conclusions of his own judgment or the dictates of his own conscience to any majority, to any party dictation, or to any public clamor. When Freedom, Righteousness and Justice were on his side he considered himself in the majority. He was constant in his attendance on the worship of a small and unpopular religious denomination. He never lost his good nature, his courage, or his supreme confidence in the final triumph of truth.

Mr. Morrill was not a great political leader. Great political leaders are not often found in the Senate nowadays. He

was contented to be responsible for one man; to cast his share of the vote of one State; to do his duty as he conceived it, and let other men do theirs as they saw it. But at least he was not a great political follower. He never committed himself to the popular currents, nor studied the vanes to see how the winds were blowing, nor sounded the depths and the shallows before he decided on his own course. There was no wire running to his seat from any centre of patronage or power. To use a felicitous phrase, I think of Senator Morgan of Alabama, he did not "come out of his door and cry 'Cuckoo!' when any clock struck elsewhere."

Mr. Morrill was a brave man—an independent man. He never flinched from uttering his thought. He was never afraid to vote alone. He never troubled himself about majorities or administrations, still less about crowds or mobs or spasms of popular excitement. His standard of excellence was high. He was severe, almost austere, in his judgments of other men. And yet, with all this, everybody liked him. Everybody who came to know him well loved him. It seems strange that he never incurred enmities or provoked resentments. I suppose the reason is that he never had any controversy with anybody. He did not mingle in the discussions of the Senate as a debater. He uttered his opinion and gave his reasons as if he were uttering judgments. But he seldom or never undertook to reply to the men who differed from him, and he rarely, if ever, used the weapons of ridicule or sarcasm or invective, and he never grew impassioned or angry. He had, in a high degree, what Jeremy Taylor calls "the endearment of prudent and temperate speech."

He was one of the men that Washington would have loved and Washington would have leaned upon. Of course I do not compare my good friend with him to whom no man living or that ever lived on earth can be compared. And Mr. Morrill was never tried or tested by executive or by military responsibilities. But the qualities which belonged to Washington belonged to him—prudence, modesty, sound judgment, simplicity, absolute veracity, absolute integrity, disinterestedness, lofty patriotism. If he is not to be com-

pared with Washington, he was at least worthy to be the countryman of Washington, and to hold a high place among the statesmen of the Republic which Washington founded.

Neither ambition nor hatred, nor the love of ease nor the greed of gain, nor the desire of popularity, nor the love of praise, nor the fear of unpopularity found a place in that simple and brave heart.

> Like as a ship that through the ocean wide
> By conduct of some star doth make her way—

no local attraction diverted the magnet in his soul, which ever pointed to the star of duty.

As I just said, he was one of the men that Washington would have loved and that Washington would have leaned upon. If we do not speak of him as a man of genius, he had that absolute probity and that sound common sense which are safer and better guides than genius. These gifts are the highest ornaments of a noble and beautiful character; they are surer guides to success and loftier elements of true greatness than what is commonly called genius. It was well said by an early American author,* now too much neglected, that—

"There is no virtue without a characteristic beauty. To do what is right argues superior taste as well as morals; and those whose practice is evil feel an inferiority of intellectual power and enjoyment, even where they take no concern for a principle. Doing well has something more in it than the mere fulfilling of a duty. It is a cause of a just sense of elevation of character; it clears and strengthens the spirits; it gives higher reaches of thought. The world is sensible of these truths, let it act as it may. It is not because of his integrity alone that it relies on an honest man, but it has more confidence in his judgment and wise conduct, in the long run, than in the schemes of those of greater intellect who go at large without any landmarks of principle. So that virtue seems of a double nature, and to stand oftentimes in the place of what we call talent."

* Richard H. Dana, the elder.

He was spared the fate of so many of our great New England statesmen, that of closing his life in sorrow and in gloom. His last days were days of hope, not of despair. Sumner came to his seat in the Senate Chamber as to a solitude. When he was struck with death there was found upon his table a volume of Shakespeare with this passage, probably the last printed text on which his eyes ever gazed, marked with his own hand:

> Would I were dead! if God's good will were so;
> For what is in this world, but care and woe?

The last days of Samuel Adams were embittered by poverty, sickness, and the death of his only son.

Daniel Webster laid wearily down his august head in disappointment and sorrow, predicting with dying breath that the end had come to the great party to whose service his life was given.

When John Quincy Adams fell at his post in the House of Representatives a great newspaper declared that there could not be found in the country another bold enough or bad enough to take his place.

But Mr. Morrill's last days were filled with hope and not with despair. To him life was sweet and immortality assured. His soul took its flight

> On wings that fear no glance of God's pure sight,
> No tempest from his breath.

And so we leave him. His life went out with the century of which he saw almost the beginning. What the future may have in store for us we cannot tell. But we offer this man as an example of an American Senator and American citizen than which, so far, we have none better. Surely that life has been fortunate. He is buried where he was born. His honored grave is hard by the spot where his cradle was rocked. He sleeps where he wished to sleep, in the bosom of his beloved Vermont. No State ever mourned a nobler son; no son was ever mourned by a nobler State. He en-

joyed to a ripe old age everything that can make life happy —honor, love, obedience, troops of friends,

> The love of friends without a single foe,
> Unequalled lot below.

He died at home. The desire of the wise man,

> Let me die in my nest,

was fulfilled to him. His eyes in his old age looked undimmed upon the greatness and the glory of his country, in achieving which he had borne so large a part.

CHAPTER VII

COMMITTEE SERVICE IN THE SENATE

I was appointed upon the Committee on Privileges and Elections, March 9, 1877, and have continued a member of it ever since.

I was appointed on the same day a member of the Committees on Claims, Indian Affairs and Agriculture. I made a special study in the vacation of 1877, expecting to master, as well as I could, the whole Indian question, so that my service on that Committee might be of some value. But I was removed from the Committee on Indian Affairs, by the Committee who made the appointments, in the following December. This was very fortunate for the country and for the Indians. Mr. Dawes, my colleague, not long after was placed upon the Committee. He was a most intelligent, faithful and stanch friend of the Indians during the remainder of his lifetime. He was ready, at the Departments and on the floor of the Senate, and wherever he could exert an influence to protect and baffle any attempt to wrong them. His quiet and unpretending service to this unfortunate and oppressed race entitles him to a very high place in the affectionate remembrance of his countrymen.

The Committee on Agriculture was then of little importance. I remained a member of it for a few years, and then gave it up for some service in which my constituents were more immediately interested.

In December, 1878, I was put on the Committee on Patents, and remained upon it for a little while. The Committee had to deal occasionally with special cases of applications for extension of patents by statute, which demanded a knowledge of the patent law, and industry and sound judgment on the part of the Senator to whom they were

committed for report. But they were not of much public interest or importance.

In December, 1879, I was put on the Committee on the Revision of the Laws; in December, 1883, on the Joint Committee on the Library; in December, 1884, on the Committee on the Judiciary, of which I have been a member ever since; in December, 1888, on the Committee on Relations with Canada; in December, 1891, on the Committee on Woman Suffrage; in December, 1895, on the Committee on Rules.

I was on the Committee on Claims for ten years, from March 9, 1877, to March 4, 1887. It is impossible to establish by the record the part any man performs, who is a member of a deliberative body consisting of several persons, in influencing its decisions, or in establishing the principles on which they are based. But I believe I may fairly claim, and that I could cite my associates on the Committee to bear testimony, that I had a great deal to do, and much more than any other person, in settling the doctrines upon which the Senate acted in dealing with the great questions of the claims of individuals and States and corporate bodies growing out of the War. Upon the rules then established the Government claims amounting to hundreds upon hundreds of millions of dollars were decided. The victorious Republic dealt justly and generously with the vanquished and misguided men who had assailed it and sought its destruction.

The general doctrines by which Congress was governed were these:

1. No rightful claim accrued to anybody for the destruction or injury to property by military movements, or operations, in a country which was the theatre of war.

2. A fair price was to be paid for supplies for the use of the Army in the field (1) to loyal persons, (2) to disloyal persons, if it were shown by a certificate of the officer who took them, or otherwise, that they were taken with the purpose of paying for them. Inhabitants of States in rebellion were presumed to be disloyal, unless their loyalty were shown affirmatively.

3. A like rule was followed in determining the question of payment for the use of buildings, occupied as soldiers' quarters, or for other official purposes, by the Army, or injury to them caused by such occupation.

4. Property taken by the Army was paid for at its actual value to the Government, and not necessarily at its value to the owner.

5. No claim accrued by reason of the destruction of property whether of loyal or disloyal persons, to prevent its falling into the hands of the enemy.

6. An exception to the principle above stated, founded not on any strict principle or established law or conduct of Governments, but on sound public policy, was adopted in the case of institutions of charity, education and religion.

I first affirmed that doctrine in the House of Representatives, in the case of the College of William and Mary of Virginia, against the almost unanimous opinion of my political associates. I thought that such a principle would be a great protection to such institutions in all future wars, that it would tend to heal the bitter recollections of the Civil War and the estrangements then existing between the sections of the country. I have lived to see the doctrine thoroughly established, the College of William and Mary rebuilt by the Government, and every church and school and hospital which suffered by the military operations of the Civil War reimbursed, if it has presented its claim.

If I have been able to render any public service, I look upon that I have rendered upon the Committee on Claims, although it has attracted but little attention, and is not of a nature to make great public impression, as perhaps more valuable than any other.

The duties of that Committee, when I was upon it, were very laborious. I find that in the first session of the first Congress, I made reports in seventeen cases, each of them involving a study of the evidence, a finding of the facts, and an investigation, statement and consideration of important principles of law, in most cases to be applied to a novel state of facts. I think that winter's work upon the Committee on Claims alone required more individual labor than that re-

quired to perform the duties of his office by any Judge of a State Court, of which I have any knowledge; and that the amount of money, and importance of the principles involved very far exceeded that involved in the aggregate of the cases in the Supreme Court of any State for a like period.

I was a member of the Committee on the Library for several years. For two or three years I was its acting Chairman during the summer, and in that capacity had to approve the accounts of the Congressional Library, and the National Botanic Garden.

To that Committee were referred applications for the erection of monuments and statues and similar works throughout the country, including the District of Columbia, and the purchase of works of art for the Government. They used to have a regular appropriation of fifteen thousand dollars annually, to be expended at their discretion, for works of art. That appropriation was stopped some years ago.

My service on that Committee brought me into very delightful relations with Mr. Sherman and Mr. Evarts. I introduced and got through a bill for a monument and statue to Lafayette and, as acting Chairman of the Library Committee was, with the Secretary of War and the Architect of the Capitol, a member of the Commission who selected the artists and contracted for the statue and monument. A resolution to build the monument passed the Continental Congress, but was not carried into effect by reason of the poverty of the Confederacy in that day. In Washington's first Administration somebody called attention to the fact that the monument had not been built, to which my grandfather, Roger Sherman, answered: "The vote is the monument." I was led by this anecdote to do what I could to have the long-neglected duty performed. The statue and monument, by two French artists of great genius, now stands at one corner of Lafayette Square. The statue of Rochambeau has just been placed at another corner of that square.

I was also fortunate enough, when I was on the Library Committee, to secure the purchase of the Franklin Papers for the Department of State. William Temple Franklin, the Doctor's son, died in London, leaving at his lodgings a mass of valuable correspondence of his father, and other papers illustrating his life, especially in France. They were discovered in the possession of the keeper of his lodgings, many years after, by Henry Stevens, the famous antiquary and dealer in rare books. Stevens had got into difficulties about money, and had pledged the collection for about twenty-five thousand dollars. It had been offered to the Government. Several Secretaries of State, in succession, including Mr. Blaine, had urged Congress to buy it, but without avail.

One day Mr. Dwight, Librarian of the State Department, came to see me at the Capitol about some not very important matter. While I was talking with him, he said that the one thing he wished most was that Congress would buy the Franklin Papers. He added "I think if I were to die, the words 'Franklin Papers,' would be found engraved on my heart." I said I thought I could accomplish the purchase. So I introduced a resolution, had it referred to the Library Committee, and we had a hearing. It happened that Edward Everett Hale, who probably knew as much about the subject and the value of the papers as anybody, was then in Washington. At the same time John Russell Bartlett was here, who had charge of the famous Brown Collection in Rhode Island. They were both summoned before the Committee, and on their statement the Committee voted to recommend the passage of the resolution. It passed the Senate. The provision was then put upon the Sundry Civil Appropriation bill. With it, however, was a provision to buy the Rochambeau Papers, which had been sent to this country on the assurance of Mr. Sherman, who was Chairman of the Committee on the Library, that Congress would purchase them. There was also a provision for buying the papers of Vans Murray, Envoy to France in Napoleon's time; and for buying two other quite important manuscript collections. When the bill got into the House, all these

things were stricken out. The Conference Committee had a great strife over them, the House refusing to put any of them in, and the Senate insisting on all. At last they compromised, agreeing to take them alternately, including the first one, rejecting the second; including the third, rejecting the fourth, and so on. In this lottery the Franklin Papers were saved, and Mr. Sherman's Rochambeau Papers were stricken out, much to his disgust. But he got an appropriation for them in a subsequent Congress.

The Committee on Rules have the control of the Capitol, and the not very important power of assigning the rooms to the different Committees. Beyond that they have not, in general, much to do. There have been few important amendments to the rules in my time, of which I was the author of two.

One of them provides that an amendment to any bill may be laid on the table, on special motion, without carrying the bill itself with it. The motion to lay on the table not being debatable, this enables the Senate to dispose promptly of a good many propositions, which otherwise would consume a good deal of time in debate. There had been such a provision as to appropriation bills before. When I first suggested this change, Mr. Edmunds exclaimed in a loud whisper, "we won't do that." But I believe he approved it finally.

The other was an amendment relating to order in debate, made necessary by a very disagreeable occurrence, which ended in the exchange of blows in the Senate, by two Senators from the same State. I had long had in mind to propose, when the occasion came, the last clause of this amendment. If Senators are to be considered to any degree as ambassadors of their States, it would seem proper that they should not be compelled to hear any reproachful language about the State they represent. Such attacks have given rise to a great deal of angry debate in both Houses of Congress.

The following is the amendment:

No Senator in debate shall directly or indirectly by any form of words impute to any Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

No Senator in debate shall refer offensively to any State of the Union.

I was also for several years a member of the Committee on Woman Suffrage. That Committee used to hear the advocates of Woman Suffrage who liked to have their arguments reported and sent through the mails as public documents under the franking privilege.

Although a very decided advocate of the extension of the right of suffrage to women, I have not thought that it was likely that that would be accomplished by an amendment to the National Constitution, or indeed that it was wise to attempt to do it in that way. The Constitution cannot be amended without the consent of three-fourths of the States. If a majority can be got in three-fourths of the States for such an amendment, their people would be undoubtedly ready to amend their State Constitutions by which, so far as each State is concerned, the object would be accomplished. So it seems hardly worth while to take the trouble of plying Congress with petitions or arguments.

But my longest service upon Committees has been upon the two great Law Committees of the Senate,—the Committee on Privileges and Elections, and the Committee on the Judiciary.

I have been a member of the Committee on Privileges and Elections since March 9, 1877. I was Chairman for more than ten years. I have been a member of the Committee on the Judiciary since December, 1884, and have been its Chairman since December, 1891, except for two years, from March 4, 1893, to March 4, 1895, when the Democrats held the Senate.

While I was Chairman it was of course my duty to represent and defend in debate the action of these Committees on all the important questions referred to them. I have also, by reason of my long service, now more than twenty-six

years, on the Committee on Privileges and Elections, been expected to take part in the discussion of all the Election cases, and of all matters affecting the privileges and dignity of the Senate, and of individual Senators. The investigations into alleged outrages at the South, and wrongs connected with them, have been conducted by that Committee. So it has been my fortune to be prominent in nearly all of the matters that have come up in the Senate since I have been a member of it, which have excited angry sectional or political feeling. Matters of finance and revenue and protection, while deeply interesting the people, do not, in general, cause angry feeling on the part of the political leaders. To this remark, the state of mind of our friends, whom we are in the habit of calling Mugwumps, and who like to call themselves Independents, is an exception. They have commonly discussed the profoundest and subtlest questions with an angry and bitter personality which finds its parallel only in the theological treatises of the dark ages. It is lucky for some of us that they have not had the fires of Smithfield or of the Inquisition at their command.

So, at various times in my life, I have been the object of the most savage denunciation, sometimes from the Independent newspapers, sometimes from the Democratic newspapers, especially those in the South, and sometimes from the press of my own party whom I have offended by differing from a majority of my political friends.

But such things are not to be taken too seriously. I have found in general that the men who deliver themselves with most bitterness and fury on political questions are the men who change their minds most easily, and are in general the most placable, and not uncommonly are the most friendly and pleasant men in the world in private intercourse. I account it my great good fortune that, although I have never flinched from uttering whatever I thought, and acting according to my own conviction of public duty, that, as I am approaching four score years, I have, almost without an exception, the good will of my countrymen, certainly if I may trust what they tell me when I meet in private intercourse men from different parts of the country, or what they

are saying of me just now in the press. But it is quite possible that I may say or do something before I get through which will change all that. So whether my sunset, which is to come very soon, is to be clear or under a cloud, it is impossible even to guess.

During this period I have taken a leading part in all questions affecting the security of the right of suffrage conferred by the Constitution of the United States on the colored people, of honesty in elections, of questions affecting disputed titles to seats in the Senate, and the extension of suffrage to women.

A very interesting question, now happily almost forgotten, came up at the December session of 1878, and was renewed at the following March session of 1879.

In 1878 the Democrats had a majority in the House of Representatives, while the Republicans had the Presidency and the Senate. In March, 1879, there was a Democratic majority in the Senate and in the House, but a Republican President. The Democratic Party chafed exceedingly under the National laws for securing the purity of elections, and for securing impartial juries in the courts of the United States. In the December session of 1878, the House inserted a provision repealing these laws. They insisted, in conference, on keeping in this provision, and refused to consent to the passage of the Executive, Legislative and Judicial Appropriation Bill, unless the Senate and the President would yield to their demand. Mr. Beck of Kentucky, one of the conferrees on the part of the Senate, representing what was then the Democratic minority, but what became at the March session the majority, stated the doctrine of the House, as announced by their conferrees—adding that he agreed with it—that unless the States should be allowed to conduct their own elections in their own way, free from all Federal interference, they would refuse under their Constitutional right to make appropriations to carry on the Government.

This was in defiance of the express provision of the Constitution that Congress might at any time alter the regulations prescribed by the State Legislatures as to time, place

and manner of holding elections for Senators and Representatives.

Mr. Beck declared that that course would be adopted and adhered to, no matter what came of the Appropriation Bills. He was followed by Mr. Thurman of Ohio, the leader of his party in the Senate, and Chairman of the Judiciary when it came into power. He said it was a question upon which he had thought long and deeply, one of the gravest which ever arose for the consideration of the American Congress, and added:

"We claim the right, which the House of Commons in England established after two centuries of contest, to say that we will not grant the money of the people unless there is a redress of grievances. . . . England was saved from despotism and an absolute monarchy by the exercise of the power of the House of Commons to refuse supplies except upon conditions that grievances should be redressed. . . . It is a mistake to suppose that it was a fight simply between the Throne and the Commons; it was equally a fight between the Lords and the Commons; and the result of two centuries of contest in England was the rule that the House of Lords had no right to amend a Money Bill."

This startling proposition claimed that it was in the power of the House of Representatives to control the entire legislation of the country. It could, if the doctrine of Mr. Beck and Mr. Thurman had prevailed, impose any condition upon an appropriation for the Judges' salaries, for the salaries of all executive officers, for carrying on the courts, and for all other functions of the Government.

I made a careful study of this question and satisfied the Senate,—and I think I satisfied Mr. Beck and Mr. Thurman,—that the doctrine had no support in this country, and had no support even in England. An examination of Parliamentary history, which I studied carefully, afforded the material for giving a narrative of every occasion when the Commons exerted their power of withholding supplies as a means of compelling a redress of grievances, from the

Conquest to the present hour. I did not undertake in a speech in the Senate to recite the authorities in full. But I summed up the result of the English and American doctrine in a few sentences, which may be worth recording here.

"First. The Commons never withheld the supplies as a means of coercing the assent of the Crown or the Lords to *legislation.*

"Second. The supplies withheld were not the supplies needed for the ordinary functions of government, to which the ordinary revenues of the Crown were sufficient, but were for extraordinary occasions, as to pay the King's debts, or to conduct foreign wars.

"Third. That when the hereditary revenues of the Crown, or those settled on the King for life at the beginning of his reign, ceased to be sufficient for the maintenance of government and for public defence, the practice of withholding supplies ceased.

"Fourth. There has been no instance since the Revolution of 1688 of attaching general legislation to a bill for raising or appropriating money, and scarcely, if ever, such an instance before that date. When such an attempt has been made it has been resisted, denounced and abandoned, and the English Constitutional authorities, without exception, are agreed that such a proceeding is unwarrantable, revolutionary and destructive of the English Constitution.

"It is true that the luxury or the ambition of Kings or their indulgent bounty to their favorites led them to assemble Parliament and to ask additional supplies from their subjects. It is also true that these requests furnished the occasion to the Commons to stipulate for redress of grievances. But the grievances so redressed had no relation to the laws of the Realm. These laws were made or altered by the free assent of the three estates in whom the law-making power vested by the Constitution. The grievances of which the Commons sought redress, whether from Tudor, Plantagenet or Stuart, were the improper use of prerogatives, the granting of oppressive monopolies, the waging of costly foreign wars, the misconduct of favorites and the

like. The improvident expenditure of the royal patrimony, the granting the crown lands or pensions to unworthy persons, is a frequent ground of complaint.

"But there is a broader and simpler distinction between the two cases. The mistake, the gross, palpable mistake, which these gentlemen fall into in making this comparison, lies at the threshold. The House of Commons, in its discretion, used to grant, and sometimes now grants, supplies to the King. The American Congress, in its discretion, never grants supplies to the President under any circumstances whatever. The only appropriation of the public money to which that term can properly apply, the provision for the President's compensation, is by design and of purpose placed wholly out of the power of Congress. The provision is peremptory that—

"'The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.'

"Alexander Hamilton, in No. 72 of the 'Federalist,' declares that the very purpose of this enactment is to put it beyond the power of Congress to compel the President 'to surrender at discretion his judgment to their inclinations.'"

Almost immediately after I entered the Senate the case came up of the title of William Pitt Kellogg to a seat in the Senate from Louisiana.

In January, 1877, a Republican Legislature was organized in Louisiana, which recognized Mr. Packard as the lawful Governor of the State. Packard had been elected, according to the claim of the Republicans, at the same election at which the Republican electors, who cast their votes for President Hayes, had been chosen. That Legislature elected Kellogg. When President Hayes refused to continue his support of the Republican government in Louisiana by military force, the Democrats organized the Legislature, a Democratic Governor took possession of power,

and the Republican State Legislature melted away. It had done little or nothing, except to elect Mr. Kellogg.

Under these circumstances, the Democrats on the Committee on Privileges and Elections, and in the Senate, claimed that the recognition of the Democratic Governor had an ex post facto operation which determined the title and the right of the Legislature who undertook to elect Mr. Spofford, Mr. Kellogg's competitor. The Republicans, on the other hand, claimed that nothing which occurred afterward could operate to determine the question of the lawfulness of the Kellogg Legislature, or its power to elect a Senator. That must be settled by the law and the fact. Upon these we thought Kellogg's title to be clear. Kellogg was seated. But when the Democrats got a majority, two years later, the Committee on Privileges and Elections, under the lead of Benjamin H. Hill of Georgia, undertook to set aside this judgment, and to seat Mr. Spofford. Mr. Hill made a long and, it is unnecessary to say, an able report, setting forth the view taken by himself and by the majority of the Committee, and recommended the admission of Mr. Spofford. I advised the Republican minority to decline to follow the Democrats into the discussion of the evidence, and to put the case alone and squarely on the authority of the previous judgment of the Senate. This I did in the following report:

The undersigned, a minority of the Committee on Privileges and Elections, to whom was referred the memorial of Henry M. Spofford, claiming the seat now occupied by William Pitt Kellogg, submit the following as their views:

On the 30th day of November, 1877, the Senate passed the following resolutions.

"*Resolved,* That William Pitt Kellogg is, upon the merits of the case, entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th of March, 1877, and that he be admitted thereto on taking the proper oath.

"*Resolved,* That Henry M. Spofford is not entitled to a seat in the Senate of the United States."

The party majority in the Senate has changed since Mr. Kellogg took the oath of office in pursuance of the above resolution. Nothing else has changed. The facts which the Senate considered and determined were in existence then, as now. It is sought, by mere superiority of numbers, for the first time, to thrust a Senator from the seat which he holds by virtue of the express and deliberate final judgment of the Senate.

The act which is demanded of this party majority would be, in our judgment, a great public crime. It will be, if consummated, one of the great political crimes in American history, to be classed with the Rebellion, with the attempt to take possession by fraud of the State Government of Maine, and with the overthrow of State Governments in the South, of which it is the fitting sequence. Political parties have too often been led by partisan zeal into measures which a sober judgment might disapprove; but they have ever respected the constitution of the Senate.

The men whose professions of returning loyalty to the Constitution have been trusted by the generous confidence of the American people are now to give evidence of the sincerity of their vows. The people will thoroughly understand this matter, and will not be likely to be deceived again.

We do not think proper to enter here upon a discussion of the evidence by which the claimant of Mr. Kellogg's seat seeks to establish charges affecting the integrity of that Senator. Such evidence can be found in abundance in the slums of great cities. It is not fit to be trusted in cases affecting the smallest amount of property, much less the honor of an eminent citizen, or the title to an object of so much desire as a seat in the Senate. This evidence is not only unworthy of respect or credit, but it is in many instances wholly irreconcilable with undisputed facts, and Mr. Kellogg has met and overthrown it at every point.

GEORGE F. HOAR,
ANGUS CAMERON,
JOHN A. LOGAN.

The Democratic majority presented their report, without asking to have it read. Then we of the minority presented ours, and had it read. It attracted the attention of the Senate and of the country. My report contains but a few sentences. That of the Democratic minority occupies eight columns of very fine print in the Congressional Record. The result was that some of the Southern Democrats, including Mr. Bayard of Delaware, General Gordon of Georgia, General Wade Hampton of South Carolina, and Mr. Pendleton, of Ohio, refused to support their associates in the extreme measure of unseating a Senator when nothing had happened to affect the judgment which seated him, except that the majority of the Senate had changed. Some of the Democratic gentlemen, however, while resting upon the old judgment of the Senate, and while refusing to set that aside, thought the Democratic charges made out on the evidence, and that Mr. Kellogg's conduct and character deserved the severest denunciation. Senator Pendleton, of Ohio, however, with a courage and manliness that did him infinite credit, after stating what his Democratic brethren said: "I am bound to say that I have read the evidence carefully, and there is nothing in it that in the least warrants any imputation upon the integrity of that Senator."

In speaking of my Committee service, perhaps I ought to say that I was appointed one of the Regents of the Smithsonian Institution in the year 1881. I liked the position exceedingly. I was very much interested in the work of the Institution, and enjoyed meeting the eminent scholars and men of science who were its members. After I had been a member a year or two a very eminent Republican Senator complained that I was getting more than my share of the prominent places in the gift of the Senate, and specified the Regency of the Smithsonian Institution as an instance. I thought there was great justice in the complaint, and accordingly I resigned and Justin S. Morrill was put in my place. It was a very fortunate thing. Mr. Morrill's influence secured the construction of the National Museum building, which I do not think it likely that I could have

accomplished. That Museum was then in charge of the Secretary of the Smithsonian Institution.

A somewhat similar thing happened to me later. In the year 1885 the Nominating Committee of the Senate, of which Senator Allison was then Chairman, proposed my name for the Committee on Foreign Relations. I should have liked that service very much. I should have liked to study the history of our diplomacy, and the National interests specially in charge of that Committee, better than anything else I can think of. But I was then a member of the Committees on the Judiciary, Privileges and Elections, Library, Patents and the Select Committee to Inquire into the Claims of Citizens of the United States against Nicaragua, no one of which I desired to give up. On the other hand, Senator Frye of Maine, a very able Senator to whom the Republicans of Massachusetts were under special obligations for his service in their campaigns, was not at that time placed in positions on Committee service such as his ability and merit entitled him to. Accordingly I told the Committee I thought they had better amend their report and put Mr. Frye on the Committee on Foreign Relations instead of myself. That was done.

I incline to think that if that had not been done, and I had remained on the Committee on Foreign Relations, that I could have defeated the Spanish Treaty, prevented the destruction of the Republic in the Philippine Islands, and the commitment of this country to the doctrine that we can govern dependencies under our Constitution, in which the people have no political or Constitutional rights but such as Congress choose to recognize.

I am not sure that modesty or disinterestedness has much place in the matter of the acceptance of high political office. We often hear a gentleman say: "I am not fit to be Judge; I am not fit to be Governor, or Senator, or member of Congress. I think other men are better qualified, and I will not consent to stand in their way." This is often said with the utmost sincerity. But anybody who acts on such a feeling ought to remember that if he accept the office, it will not be filled by a worse man than he; if he accept the

office, it being a political office, he is sure that the office will be filled by a man who will desire to accomplish, and will do his best to accomplish, the things he thinks for the public good. He should also remember, so far as the matter of ability is concerned, that other men are likely to be much better judges of his capacity than he is himself. If men are likely often to overrate their own capacity, they are also very often likely to underrate it.

Let me not be understood as commending the miserable self-seeking which too often leads men to urge their own claims without regard to the public interests. A man who is his own candidate is commonly a very bad candidate for his party.

One vote, more than once, would have saved the country from what I think its wretched policy in regard to the Philippine Islands. There was just one vote to spare when the Spanish Treaty was ratified. One Senator waited before voting until the roll-call was over and the list of the votes read by the clerk, before he finally voted for the treaty. He said he did not wish to butt his head against the sentiment of his State if he could do no good; but if his vote would defeat it, he should vote against it. If there had been one less vote, his vote would have defeated it. The Treaty would have been lost, in my opinion, if Senator Gray, one of the Commissioners who made it, who earnestly protested against it, but afterward supported it, had not been a member of the Commission. The resolution of Mr. Bacon, declaring our purpose to recognize the independence of the Philippine people, if they desired it, was lost also by a single vote. The Philippine Treaty would have been lost but for Mr. Bryan's personal interposition in its behalf. It would have been defeated, in my judgment, if Speaker Reed, a man second in influence and in power in this country to President McKinley alone, had seen it to be his duty to remain in public life, and lead the fight against it.

So I think it is rarely safe for a man who is in political life for public, and not for personal ends, and who values the political principles which he professes, to decline any

position of power, either from modesty, doubt of his own ability, or from a desire to be generous to other men.

My twenty years' service on the Committee on the Judiciary, so far as it is worth narrating, will appear in the account of the various legal and Constitutional questions which it affected.

CHAPTER VIII

THE RIVER AND HARBOR BILL

I HAVE throughout my whole public political life acted upon my own judgment. I have done what I thought for the public interest without much troubling myself about public opinion. I always took a good deal of pride in a saying of Roger Sherman's. He was asked if he did not think some vote of his would be very much disapproved in Connecticut, to which he replied that he knew but one way to ascertain the public opinion of Connecticut; that was to ascertain what was right. When he had found that out, he was quite sure that it would meet the approval of Connecticut. That in general has been in my judgment absolutely and literally true of Massachusetts. It has required no courage for any representative of hers to do what he thought was right. She is apt to select to speak for her, certainly those she sends to the United States Senate, in whose choice the whole Commonwealth has a part, men who are in general of the same way of thinking, and governed by the same principles as are the majority of her people. When she has chosen them she expects them to act according to their best judgment, and not to be thinking about popularity. She likes independence better than obsequiousness. The one thing the people of Massachusetts will not forgive in a public servant is that he should act against his own honest judgment to please them. I am speaking of her sober, second thought. Her people, like the rest of mankind, are liable to waves of emotion and of prejudice. This is true the world over. It is as true of good men as of bad men, of educated as of ignorant men, whenever they are to act in large masses. Alexander Hamilton said that if every Athenian citizen had been a Socrates, still every Athenian assembly would have been a mob. So I claim no

credit that I have voted and spoken as I thought, always without stopping to consider whether public opinion would support me.

The only serious temptation I have ever had in my public life came to me in the summer of 1882, when the measure known as the River and Harbor Bill was pending. The bill provided for an expenditure of about eighteen million dollars. Of this a little more than four million was for the execution of a scheme for the improvement of the Mississippi River and its tributaries, which had been recommended by President Arthur in a special message. All the other appropriations put together were a little less than fourteen million dollars. The bill passed both Houses. President Arthur vetoed it, alleging as a reason that the measure was extravagant; that the public works provided for in it were of local interest, not for the advantage of international or interstate commerce; and that it had got through by a system of log-rolling, the friends of bad schemes in one State joining with the friends of bad schemes in another, making common cause to support the bill. He added that in that way, the more objectionable the measure, the more support it would get. The press of the country, almost without exception, supported the President. The reasons which applied to each improvement were not well understood by the public. So the conductors of the newspapers naturally supposed the President to be in the right in his facts. The Democratic newspapers were eager to attack Republican measures. Where there were factions in the Republican Party, the Republican papers of one faction were ready to attack the men who belonged to the other. The independent newspapers welcomed any opportunity to support their theory that American public life was rotten and corrupt. So when the question came up whether the bill should pass notwithstanding the objections of the President, there was a storm of indignation throughout the country against the men who supported it.

But the committees who had supported it and who had reported it, and who knew its merits, and the men who had voted for it in either House of Congress, could not well

stultify themselves by changing their votes, although some of them did. I was situated very fortunately in that respect. I had been absent on a visit to Massachusetts when the bill passed. So I was not on record for it. I had given it no great attention. The special duties which had been assigned to me related to other subjects. So when the measure came up in the Senate I had only an opinion founded on my general knowledge of the needs of the country and the public policy, that it was all right. My reelection was coming on. I was to have a serious contest, if I were a candidate, with the supporters of General Butler, then very powerful in the State. He, in fact, was elected Governor in the election then approaching. My first thoughts were that I was fortunate to have escaped this rock. But when the vote came on I said to myself: "This measure is right. Is my father's son to sneak home to Massachusetts, having voted against a bill that is clearly righteous and just, because he is afraid of public sentiment?" Senator McMillan, the Chairman of the Committee who had charge of the bill, just before my name was called, asked me how I meant to vote. I told him I should vote for the bill, because I believed it to be right, but that it would lose me the support of every newspaper in Massachusetts that had been friendly to me before. I voted accordingly. The vote was met by a storm of indignation from one end of Massachusetts to the other, in which every Republican newspaper in the State, so far as I know, united. The Springfield *Republican* and the Boston *Herald,* as will well be believed, were in glory. The conduct of no pick-pocket or bank robber could have been held up to public indignation and contempt in severer language than the supporters of that bill. A classmate of mine, an eminent man of letters, a gentleman of great personal worth, addressed a young ladies' school, or some similar body in Western Massachusetts, on the subject of the decay of public virtue as exemplified by me. He declared that I had separated myself from the best elements in the State.

The measure was passed over the President's veto. But it cost the Republican Party its majority in the House of

Representatives. A large number of the members of the House who had voted for it lost their seats. If the question of my reelection had come on within a few weeks thereafter, I doubt whether I should have got forty votes in the whole Legislature. If I had flinched or apologized, I should have been destroyed. But I stood to my guns. I wrote a letter to the people of Massachusetts in which I took up case by case each provision of the bill, and showed how important it was for the interest of commerce between the States, or with foreign countries, and how well it justified the moderate expenditure. I pointed out that the bill had been, in proportion to the resources of the Government, less in amount than those John Quincy Adams and Daniel Webster had formerly advocated; that Mr. Webster, with the single exception of his service for preserving the Union, prided himself on his support of this policy of public improvement more than on anything else in his life, and had made more speeches on that subject than on any other. Mr. Adams claimed to be the author of the policy of internal improvements. So that it was a Massachusetts policy, and a Massachusetts doctrine. I asked the people of Massachusetts to consider whether they could reasonably expect to get their living by manufacture, to which nearly the whole State was devoted, bringing their raw material and their fuel and their iron and coal and cotton and wool from across the continent, and then carrying the manufactured article back again to be sold at the very places where the material came from, in competition with States like Pennsylvania and New York and Ohio and Indiana, unless the cost of transportation was, so far as possible, annihilated. I concluded by saying that I knew they would not come to my way of thinking that afternoon or that week, but that they were sure to come to it in the end. With very few exceptions the letter did not change the course of the newspapers, or of the leading men who had zealously committed themselves to another doctrine. But it convinced the people, and I believe it had a very great effect throughout the country, and was the means of saving the policy of internal improvements from destruction.

Mr. Clapp, of the Boston *Journal,* with a manliness that did him infinite credit, declared publicly in its columns that he had been all wrong, and that I was right. The Worcester *Spy,* edited by my dear friend and near kinsman, Evarts Greene, had with the rest of the press attacked my vote. Mr. Greene himself was absent at the time, so the paper was then in charge of an associate. When Mr. Greene returned I asked him to spend an afternoon at my house. That was before my letter came out. I had sent to Washington for all the engineers' reports and other documents showing the necessity of every item of the bill. Mr. Greene made a careful study of the bill and agreed with me.

The Boston *Herald* also obtained all the material from Washington and sent it to a very able gentleman who, though not taking any part in the ordinary conduct of the *Herald,* was called upon for services requiring special ability and investigation. They asked him to answer my letter. He spent five days in studying the matter, and then wrote to the managing editor of the paper that Mr. Hoar was entirely right, and that he should not write the article desired. The *Herald,* however, did not abandon its position. It kept up the war. But I ought to say it so far modified its action that it supported me for reelection the next winter.

The Springfield *Republican* saw and seized its opportunity. It attacked the River and Harbor Bill savagely. It said: "Mr. Hoar is a candidate for reelection and has dealt himself a very severe blow. The Commonwealth was prepared to honor Messrs. Crapo and Hoar anew. To-day it pauses, frowns and reflects." So it kept up the attack. It had previously advocated the selection of Mr. Crapo as candidate for Governor. It bitterly denounced me. Mr. Crapo had himself voted for the River and Harbor Bill. It could not consistently maintain its bitter opposition to me, because of my vote, while supporting Mr. Crapo. So it declared it could no longer support him.

When the State Convention came the feeling was still strong, though somewhat abated. I had been asked by the Committee, a good while before, to preside at the Conven-

tion. This I did. I was received rather coldly when I went forward. But I made no apologies. I began my speech by saying: "It gives me great pleasure to meet this assembly of the representatives of the Republicans of Massachusetts. I have seen these faces before. They are faces into which I am neither afraid nor ashamed to look." The assembly hesitated a little between indignation at the tone of defiance, and approval of a man's standing by his convictions. The latter feeling predominated, and they broke out into applause. But the resolutions which the Committee reported contained a mild but veiled reproof of my action.

Mr. Crapo was defeated in the Convention. I have no doubt he would have been nominated for Governor, but for his vote for the River and Harbor Bill. His successful competitor, Mr. Bishop, was a gentleman of great personal worth, highly esteemed throughout the Commonwealth, and of experience in State administration. But it was thought that his nomination had been secured by very active political management, concerted at the State House, and that the nomination did not fairly represent the desire of the people of the Commonwealth. Whatever truth there may have been in this, I am very sure that Mr. Crapo's defeat could not have been compassed but for his vote for the River and Harbor Bill. The result of the above feeling, however, was that the Republican campaign was conducted without much heart, and General Butler was elected Governor.

When the election of Senator came in the following winter, I was opposed by what remained of the feeling against the River and Harbor Bill. My principal Republican competitors were Mr. Crapo, whose friends rightly thought he had been treated with great injustice; and Governor Long, a great public favorite, who had just ended a brilliant and most acceptable term of service as Governor. Governor Long had presided at a public meeting where President Arthur had been received during the summer, and had assured him that his action had the hearty approval and support of the people of the Commonwealth. I had, of course, no right to find the least fault with the supporters of Governor Long. He would have been in every way a

most acceptable and useful Senator. I ought to say that, as I understood it, he hardly assumed the attitude of a candidate for the place, and declared in a public letter or speech that he thought I ought to be reelected. So, after a somewhat earnest struggle I was again chosen.

One curious incident happened during the election. The morning after the result was declared, a story appeared in the papers that Mr. Crapo's supporters had been led to come over to me by the statement that one of them had received a telegram from him withdrawing his name, and advising that course. The correspondent of one of the papers called upon Mr. Crapo, who answered him that he had never sent any such telegram to Boston. So it was alleged that somebody who favored me had brought about the result by this false statement. A newspaper correspondent called on me in Washington, and asked me about the story. I told him that I had not heard of the story, but that if it turned out to be true I, of course, would instantly decline the office. A full investigation was made of the matter, and it turned out that Mr. Crapo had sent such a telegram to a member of the Legislature in New Bedford, who had taken it to Boston and made it known.

The next winter, at my suggestion, a resolution was passed calling upon the Secretary of War, Mr. Lincoln, to specify with items in the River and Harbor Bill of the previous winter were not, in his opinion, advisable, or did not tend to promote international or interstate commerce. He replied specifying a very few items only, amounting altogether to a very few thousand dollars. This reply was made by the Secretary of War, as he told me in private afterward, by the express direction of the President, and after consultation with him. That ended the foolish outcry against the great policy of internal improvement, which has helped to make possible the marvels of our domestic commerce, one of the most wonderful creations of human history. The statistics of its vast extent, greater now, I think, than all the foreign commerce of the world put together, from the nature of the case, never can be precisely ascertained. It is not only wonderful in its amount, but in its origin, its

resources, and in its whole conduct. All its instrumentalities are American. It is American at both ends, and throughout all the way. This last year a bill providing for an expenditure of sixty millions, nearly four times the amount of that which President Arthur, and the newspapers that supported him, thought so extravagant, passed Congress without a murmur of objection, and if I mistake not, without a dissenting vote.

I should like to put on record one instance of the generosity and affection of Mr. Dawes. He had not voted when his name was called, expecting to vote at the end of the roll-call. He meant to vote against the passage of the bill over the veto. But when he heard my vote for it, he saw that I was bringing down on my head a storm of popular indignation, and made up his mind that he would not throw the weight of his example on the side against me. So, contrary to his opinion of the merits of the bill, he came to my side, and voted with me.

I suppose a good many moralists will think that it is a very wicked thing indeed for a man to vote against his convictions on a grave public question, from a motive like this, of personal friendship. But I think on the whole I like better the people, who will love Mr. Dawes for such an act, than those who will condemn him. I would not, probably, put what I am about to say in an address to a Sunday-school, or into a sermon to the inmates of a jail or house of correction. I cannot, perhaps, defend it by reason. But somehow or other, I am strongly tempted to say there are occasions in life where the meanest thing a man can do is to do perfectly right. But I do not say it. It would be better to say that there are occasions when the instinct is a better guide than the reason. At any rate, I do not believe the recording angel made any trouble for Mr. Dawes for that vote.

CHAPTER IX

CHINESE TREATY AND LEGISLATION

Much of what I have said in the preceding chapter is, in substance, applicable to my vote on another matter in which I had been compelled to take an attitude in opposition to a large majority of my own party and to the temporary judgment of my countrymen: that is the proposed legislation in violation of the Treaty with China; the subsequent Treaty modifying that negotiated in 1868 by Mr. Seward on our part, and Mr. Burlingame for China; and the laws which have been enacted since, upon the subject of Chinese immigration. I had the high honor of being hung in effigy in Nevada by reason of the report that I had opposed, in secret Session of the Senate, the Treaty of 1880. My honored colleague, Mr. Dawes, and I were entirely agreed in the matter. Mr. Dawes complained good-naturedly to Senator Jones, of Nevada, that he had been neglected when the Nevada peopled had singled me out for that sole honor, to which Mr. Jones, with equal good-nature, replied that if Mr. Dawes desired, he would have measures taken to correct the error, which had inadvertently been made.

In 1868 the late Anson Burlingame, an old friend of mine and a man highly esteemed in Massachusetts, who had been sent to China as the American Minister in Mr. Lincoln's time, was appointed by the Chinese Government its Ambassador, or Envoy, to negotiate treaties with the United States and several European powers. He made a journey through this country and Europe, travelling with Oriental magnificence, in a state which he was well calculated to maintain and adorn. It was just after we had put down the Rebellion, abolished slavery, and made of every slave a

freeman and of every freeman a citizen. The hearts of the people were full of the great doctrines of liberty which Jefferson and the Fathers of our country had learned from Milton and the statesmen of the English Commonwealth.

The Chinese Treaty was concluded on the 28th of July, 1868, between Mr. Seward and Mr. Burlingame and his associate Plenipotentiaries Chih-Kang and Sun Chia-Ku. It contained the following clause:

"The United States of America and the Emperor of China cordially recognize the inherent and inalienable right of man to change his home and allegiance, and also the mutual advantage of free migration and emigration of their citizens and subjects respectively from one country to the other for purposes of curiosity, of trade, or as permanent residents."

Article VII. of the same Treaty stipulated that citizens of each power should enjoy all the privileges of the public educational institutions under the control of the government of the other, enjoyed by the citizens or the subjects of the most favored nation, and that the citizens of each might, themselves, establish schools in the other's country. Congress passed an Act, July 27, 1868, to a like effect, to which the following is the preamble to the first section:

"Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty and the pursuit of happiness; and whereas in the recognition of this principle this government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore," etc.

Thereafter, in the first term of the Administration of President Hayes, in the December Session of 1878, a bill

was introduced which, almost defiantly, as it seemed to me, violated the faith of the country pledged by the Burlingame Treaty. There had been no attempt to induce China to modify that Treaty. I resisted its passage as well as I could. But my objection had little effect in the excited condition of public sentiment. The people of the Pacific coast were, not unnaturally, excited and alarmed by the importation into their principal cities of Chinese laborers, fearing, I think without much reason, that American laboring men could not maintain themselves in the competition with this thrifty and industrious race who lived on food that no American could tolerate, and who had no families to support, and who crowded together, like sardines in a box, in close and unhealthy sleeping apartments. I supposed that the labor of this inferior class would raise the condition of better and more intelligent laborers. That, however, was a fairly disputable question. But I could not consent to striking at men, as I have just said, because of their occupation. This bill was vetoed by President Hayes, who put his objections solely upon the ground that the bill was in violation of the terms of the existing Treaty. The House, by a vote of 138 yeas to 116 nays, refused to pass the bill over the veto.

But in 1880 a Treaty was negotiated, and approved by the Senate and ratified July 19, 1881, which relieved the United States from the provisions of the Burlingame Treaty, and permitted the exclusion of Chinese laborers. I made a very earnest speech, during a debate on this Treaty in Executive Session of the Senate, in opposition to it. The Senate did me the honor, on the motion of Mr. Dawes, of a vote authorizing my speech to be published, notwithstanding the rule of secrecy. But one Senator from the Pacific coast complained, I think with some reason, that I was permitted to publish my argument on one side when he not only was not permitted to publish his on the other, but his constituents had no means of knowing that he had defended their views or made proper answer to mine. So I thought it hardly fair to make my speech public, and it was not done.

Later, in the spring of 1882, a bill was passed to carry into effect the Treaty of 1880. That I resisted as best I could. In opposition to this bill I made an earnest speech showing it to be in conflict with the doctrines on which our fathers founded the Republic; with the principles of the Constitutions of nearly all the States, including that of California, and with the declarations of leading statesmen down to the year 1868. I showed also that the Chinese race had shown examples of the highest qualities of manhood, of intelligence, probity and industry. I protested against a compact between the two greatest nations of the Pacific, just as we were about to assert our great influence there, which should place in the public law of the world, and in the jurisprudence of America, the principle that it is fitting that there should be hereafter a distinction in the treatment of men by governments and in the recognition of their right to the pursuit of happiness by a peaceful change of their homes, based, not on conduct, not on character, but upon race and occupation; by asserting that you might justly deny to the Chinese what you might not justly deny to the Irish, that you might justly deny to the laborer what you might not deny to the idler. I pointed out that this declaration was extorted from unwilling China by the demand of America; and that laborers were henceforth to be classed, in the enumeration of American public law, with paupers, lazzaroni, harlots, and persons afflicted with pestilential diseases. I ended what I had to say as follows:

"Humanity, capable of infinite depths of degradation, is also capable of infinite heights of excellence. The Chinese, like all other races, has given us its examples of both. To rescue humanity from this degradation is, we are taught to believe, the great object of God's moral government on earth. It is not by injustice, exclusion, caste, but by reverence for the individual soul that we can aid in this consummation. It is not by Chinese policies that China is to be civilized. I believe that the immortal truths of the Declaration of Independence came from the same source with the Golden Rule and the Sermon on the Mount. We can

trust Him who promulgated these laws to keep the country safe that obeys them. The laws of the universe have their own sanction. They will not fail. The power that causes the compass to point to the north, that dismisses the star on its pathway through the skies, promising that in a thousand years it shall return again true to its hour and keeps His word, will vindicate His own moral law. As surely as the path on which our fathers entered a hundred years ago led to safety, to strength, to glory, so surely will the path on which we now propose to enter bring us to shame, to weakness, and to peril."

The Statute then enacted, expired by its own limitation twenty years afterward. Meantime the prejudice against Chinese labor had modified somewhat. The public had become somewhat more considerate of their rights and, at any rate, there was a desire to maintain some show of decency in legislating in the matter. So a more moderate Statute was enacted in 1902. I was the only person who voted against it in either House. It was, of course, clear that resistance was useless. It was not worth while, it seemed to me, to undertake to express my objections at length. I contented myself with the following brief remonstrance:

"Mr. President, I think this bill and this debate indicate a great progress in sentiment. The sentiment of the country has passed, certainly so far as it is represented by a majority of the Senate, the stage, if it ever was in it, of a reckless seeking to accomplish the result of Chinese exclusion without regard to constitutional restraints, treaty obligations, or moral duties. There was in some quarters, as it seemed to me, in olden times, a disregard of all these restraints, certainly in the press, certainly in the harangues which were made to excited crowds in various parts of the country. Among others I can remember a visit of the apostle of Chinese exclusion to Boston Common which indicated that spirit.

"Now, that has gone largely, and the Senate has discussed this question with a temperate desire on the part of all classes and all Senators, whatever ways of thinking they have, to do what seemed to them for the benefit of labor, the quality of the citizenship of this country, in a moderate and constitutional fashion.

"But I cannot agree with the principle on which this legislation or any legislation on the subject which we have had in the country since 1870 rests. I feel bound to enter a protest. I believe that everything in the way of Chinese exclusion can be accomplished by reasonable, practical and wise measures which will not involve the principle of striking at labor, and will not involve the principle of striking at any class of human beings merely because of race, without regard to the personal and individual worth of the man struck at. I hold that every human soul has its rights, dependent upon its individual personal worth and not dependent upon color or race, and that all races, all colors, all nationalities contain persons entitled to be recognized everywhere they go on the face of the earth as the equals of every other man."

I do not think any man ever hated more than I have hated the affectation or the reality of singularity. I know very well that the American people mean to do right, and I believe with all my heart that the men and the party with whom I have acted for fifty years mean to do right. I believe the judgment of both far better than my own. But every man's conscience is given to him as the lamp for his path. He cannot walk by another light.

It is also true that the great political principles which have been in issue for the last thirty years, have been, in general, those that have been debated for centuries, and which cannot be settled by a single vote, in a legislative body, by the result of a single election, or even by the opinion of a single generation. In nearly every one of what I am sorry to say are the numerous instances where I have been compelled to act upon my judgment against that of my own party, and even against that of the majority of my own

countrymen, the people have subsequently come around to my way of thinking, and in all of them, I believe, I have had on my side the opinion of the great men of the great generations of the past. Certainly the Chinese Exclusion Bill and the Chinese Treaty; the Spanish Treaty and the War against the Philippine people could not have lived an hour before the indignation of the American people at any time from the beginning down to the time when, in 1876, they celebrated the centennial of their Independence.

CHAPTER X

THE WASHINGTON TREATY AND THE GENEVA AWARD

The Treaty of Washington, creditable to all who engaged in it, not to be judged by its details, but by its great effect in securing peace to the world, saved Great Britain from a war with us, in which it is not unlikely that the nations of Europe who hated her would have come to take part on our side. But it saved us from the greater danger of having the war spirit renewed and intensified by this gigantic struggle, from an international hatred which would not have cooled again for a century; or, if we did not declare war, from taking the ignoble attitude of a great and free people lying in wait for an opportunity to revenge itself.

It was the purpose of that Treaty to remove every cause of quarrel. One constant cause of quarrel, for many years, had been the exercise of our right to fish on the shores of Newfoundland. In the Treaty it was agreed that the United States should have, in addition to her existing rights for ten years, and for such further time as the parties should agree, the right to take fish on the sea coast of the British Provinces north of us, with permission to land for the purpose of drying nets and curing fish, and that we were to pay for the privilege a sum to be fixed by arbitrators. Two of these arbitrators were to be appointed by the United States and Great Britain; the other, who would serve as an umpire, to be agreed upon by the two powers, or, if not agreed upon within a certain time, then to be appointed by the Emperor of Austria. Great Britain insisted upon having the Belgian Minister to the United States for the third arbitrator, and refused to name or suggest or agree to any other person. So the time expired. Thereupon the Belgian Minister, Mr. Delfosse, was selected by

the Emperor of Austria. Mr. Delfosse's own fortune in public life depended upon his Sovereign's favor. We had already notified Great Britain that, if the Belgian Minister were selected, he would probably deem himself disqualified by reason of the peculiar connection of his Government with that of Great Britain. When the Treaty was negotiated, Earl de Grey, Chairman of the Commissioners, said, speaking of the Government to whom the matter might be referred: "I do not name Belgium, because Great Britain has treaty arrangements with that Government which might be supposed to incapacitate it." Belgium, as was notorious, was dependent upon Great Britain to maintain its political existence against the ambitions of France and Germany. Mr. Delfosse's sovereign was the son of the brother of Queen Victoria's mother and Prince Albert's father, and was, himself, brother of Carlotta, wife of Maximilian, whom we had lately compelled France to abandon to his fate.

The referee awarded that we should make a payment to Great Britain for this fishery privilege of five million five hundred thousand dollars. We never valued them at all. We abandoned them at the end of ten years. It would have been much better to leave the matter to Great Britain herself. If she had been put upon honor she would not have made such an award. No English Judge who valued his reputation would have suggested such a thing, as it seemed to us.

I would rather the United States should occupy the position of paying that award, after calling the attention of England to its injustice and wrong, than to occupy the position of England when she pocketed the money. A war with England would have been a grievous thing to her workingmen who stood by us in our hour of peril, and to all that class of Englishmen whom we loved, and who loved us. Such a war would have been a war between the only two great English-speaking nations of the world, and the two nations whose policy, under methods largely similar, though somewhat different, were determined by the public opinion of their people.

If however our closer and friendlier relations with England are to result in our adopting her social manners, her deference to rank and wealth, and of adopting her ideas of empire and the method of treating small and weak nations by great and strong ones, it would be better that we had kept aloof, and that the old jealousy and dislike engendered by two wars had continued.

A very interesting question was settled during the Administration of President Hayes as to the disposition of the $15,500,000 recovered from Great Britain by the award of the tribunal of Geneva for the violation of the obligations of neutrality during the Civil War. Great Britain, after what we had claimed was full notice of what was going on, permitted certain war vessels to be constructed in England for the Confederate Government. She permitted those vessels to leave her ports and, by a preconcerted arrangement, to receive their armament, also procured in Great Britain. She turned a deaf, an almost contemptuous ear, to the remonstrances of Mr. Adams, our Minister. The Foreign Office, after a while, informed him that they did not wish to receive any more representations on that subject. But, as the War went on and the naval and military strength of the United States increased and became more manifest, Great Britain became more careful. At last some Rebel rams were built by the Lairds, ship-builders of Liverpool. Mr. Adams procured what he deemed sufficient evidence that they were intended for the Confederate service, and made a demand on Lord Russell, the British Foreign Minister, that they be detained. To this Lord Russell replied that he had submitted the matter to the Law officers of her Majesty's Government, and they could see no reason for interfering. To this Mr. Adams instantly replied that he received the communication with great regret, adding, "It would be superfluous in me to point out to your Lordship that this is war." Lord Russell hastily reconsidered his opinion, and ordered the rams to be stopped.

He afterward, as appears in his biography by Spencer Walpole, admitted his error in not interfering in the case of the vessels that had gone out before. But the mischief

was done. The terror of these Confederate vessels had driven our commerce from the sea, or had compelled our merchant vessels to sail under foreign flags, and had enormously increased the rate of insurance to those who kept the sea under our flag.

After the War had ended a demand for compensation was earnestly pressed upon Great Britain. A demand was made to refer the claims to arbitration, and a Treaty negotiated for that purpose by Reverdy Johnson under Andrew Johnson's Administration, was rejected by the Senate, on the ground, among other reasons, that the element of chance entered into the result.

Thereafter, in General Grant's time, a Joint High Commission to deal with this controversy was agreed upon between the two countries, which sat in Washington, in 1871. The Commissioners in behalf of the United States were Hamilton Fish, Secretary of State; Robert C. Schenck, then our Minister to England; Samuel Nelson, Judge of the Supreme Court; Ebenezer Rockwood Hoar, lately Attorney-General, and George H. Williams, afterward Attorney-General. On behalf of Great Britain there were Earl de Grey and Ripon, afterward Marquis of Ripon; Sir Stafford H. Northcote, afterward Earl of Idesleigh; Edward Thornton, then the British Minister here; John A. MacDonald, Premier of Canada, and Montague Bernard, Professor of International Law at Oxford. The two countries could not, in all probability, have furnished men more competent for such a purpose. They agreed upon a treaty. The rules by which neutral governments were to be held to be bound for the purposes of the arbitration were agreed on beforehand in the Treaty itself. They agreed to observe these rules between themselves in the future, and to invite other maritime powers to accede to them. The Treaty also contained a statement that Her Britannic Majesty had "authorized her High Commissioners and Plenipotentiaries to express in a friendly spirit the regret felt by Her Majesty's Government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels." I am

not aware that a like apology has ever been made by Great Britain during her history, to any other country. There was a provision also, for the reference of some other matters in dispute between the two countries. One of these related to the fisheries—a source of irritation between this country and the British possessions north of us ever since the Revolution.

I will not undertake to tell that part of the story here. It was agreed to submit the questions of the claims growing out of the escape of the Rebel cruisers to a tribunal which was to sit at Geneva. Of this, one member was to be appointed by each of the parties, and the others by certain designated foreign governments. Our Commissioner was Charles Francis Adams, who had borne himself so wisely and patiently during the period of the Civil War. The English Commissioner was Sir Alexander Cockburn, Lord Chief Justice of England. The United States was represented by Caleb Cushing, William M. Evarts and Morrison R. Waite, afterward Chief Justice of the United States, as counsel.

Adams rarely betrayed any deep emotion on any public occasion, however momentous. But it must have been hard for him to conceal the thrill of triumph, after the ignominy to which he had submitted during that long and anxious time, when he heard the tribunal pronounce its judgment, condemning Great Britain to pay $15,500,000 damages for the wrong-doing against which he had so earnestly and vainly protested. Perhaps the feeling of his grandfather when he signed the Treaty of Independence in 1783 might alone be compared to it. Yet his father, John Quincy Adams, had something of the same feeling when, at the close of a war which put an end forever to the impressment of American seamen, and made the sailor in his ship as safe as the farmer in his dwelling, he signed the Treaty which secured our boundary and our fisheries as they had been secured by his father.* John Quincy Adams had struck, by the direction of his father, in 1815, a seal which he gave to

* This story is told more fully at page 147. It seems appropriate in both places.

his son, with the injunction to give it to his, bearing the motto, "Piscemur, venemur, ut olim,"—We keep our hunting grounds and our fishing grounds as of old. I doubt if three such achievements, by three successive generations, can be found in the annals of any other family however illustrious.

The $15,500,000 was promptly paid. Then came the question what to do with it. There was no doubt anywhere, that the owners of vessels or cargoes that had been captured or destroyed by the cruisers for whose departure from British ports Great Britain was in fault, were entitled to be paid. That, however, would not consume the fund. The fund had been paid in gold coin by Great Britain, September 9, 1873, and had been covered into the Treasury the same day. This sum was invested in a registered bond for the amount, of the five per cent. loan of 1881, dated September 10, 1873, inscribed, "Hamilton Fish, Secretary of State, in trust. To be held subject to the future disposition of Congress, etc." This sum largely exceeded what was necessary to make good the principal of all losses directly resulting from the damages caused by the insurgent cruisers, above what had already been reimbursed from insurance. These claims were popularly termed the "claims for direct damages."

The question what to do with the balance was the subject of great dispute throughout the country, and of much debate in both Houses of Congress. Some persons claimed that the owners directly damaged should receive interest. That would still leave a large part of the fund undisposed of. It was insisted that the remainder belonged to the Government for the benefit of the whole people who had borne the burden and cost of the war. Others claimed that, as nothing but direct damages were lawfully assessable, the balance should be paid back to Great Britain. Still others claimed that the persons who had suffered indirectly by the loss of voyages, the increased rates of insurance, and the breaking up of business, were justly entitled to the money. Still others, perhaps the most formidable and persistent of all, claimed that the underwriters who had paid

insurance on vessels or cargoes destroyed, were entitled to the money on the familiar principle that an insurer who pays a loss is subrogated to all the legal and equitable claims of the party insured.

These disputes prevented any disposition of the fund by Congress until the summer of 1874.

Judge Hoar, who was then a Member of the House of Representatives, suggested that as everybody agreed that the claims for direct damages ought to be paid, that it was not fair that they should be kept waiting longer in order to settle the dispute about the rest of the fund. In accordance with his suggestion a Court was provided for by Act of Congress, whose duty it was to receive and examine all claims directly resulting from damages caused by the insurgent cruisers. They were directed, however, not to allow any claim where the party injured had received indemnity from any insurance company, except to the excess of such claim above the indemnity. They were further authorized to allow interest at the rate of four per cent. The Court performed its duty. When its judgments had been paid there still remained a large balance. The ablest lawyers in the Senate, in general, pressed the claim of the insurance companies to the balance of the fund, including Mr. Edmunds, Judge Davis, Judge Thurman and Mr. Bayard. I took up the question with a strong leaning for the insurance companies. I was, of course, impressed by the well-known principle of law that the underwriter who had paid for property destroyed by the cause against which he had insured, was entitled to be substituted to all other rights or remedies which the owner may have for reimbursement of his loss. I was very much impressed also in favor of the insurance companies, who were making what they doubtless believed an honest and just claim, fortified by many of the best legal opinions in Congress and out of it, by the character of the attacks made on them, especially by General Butler. These attacks appealed to the lowest passions and prejudices. It was said that the companies were rich; that they made their money out of the misfortunes of their countrymen; that they were trying to get up to their arm-pits in

the National Treasury, and that they employed famous counsel. If there be anything likely to induce a man with legal or judicial instincts to set his teeth against a proposition, it is that style of argument.

But I came to the conclusion, both from the history of the proceedings at Geneva, and from the nature of the submission, that the claim that had been established against Great Britain was a National claim, made by National authority for a National injury. That this was the character of the claim our counsel gave express notice to Great Britain and to the tribunal. This opinion was asserted by Mr. Adams, one of the arbitrators, in his opinion, and by Mr. Fish in his instructions to the counsel. When the Government of the United States received it, it seemed to me that it was entitled to apply it in its high discretion; and to give it to such persons entitled to its protection or consideration as it should see fit. I made a careful argument in support of this view. I thought, accordingly, that the balance of the fund, after compensating all persons, not yet paid, for claims directly resulting from damage done on the high seas by Confederate cruisers, and the class of insurance companies above mentioned, should be paid to persons who had paid premiums for war risks after the sailing of any Confederate cruiser. I maintained this doctrine as well as I could against the powerful arguments I have named. There were other very strong arguments on the same side, and I had the gratification of being assured by several Senators that my presentation of the case had convinced them. Mr. Blaine, who had, himself, earnestly engaged in the debate, said that he thought that the opinion of the majority of the Senators had been changed by my argument.

CHAPTER XI

THE PRESIDENT'S POWER OF REMOVAL

The two most important questions of the construction of the Constitution which came up in our early history have been finally put at rest in our day. I have had something to do with disposing of both of them. With the disposition of one of them I had a leading part.

The first of these questions was whether in executing the powers conferred upon it by the Constitution, Congress must confine itself to such means and instrumentalities as are strictly and indispensably necessary to their accomplishment; or whether it might select, among the measures which fairly promote such Constitutional ends, any method which it shall think for the public interest, exercising this power in a liberal way, and remembering in doing so that it is a Constitution—the vital power of a free people,—we are defining and limiting, and not an ordinary power of attorney.

This question first came up in Washington's Administration, on the bill for establishing a National Bank. Seldom any doubt is raised now as to the Constitutional power of the National Government to accomplish and secure any of the great results which we could not secure before the war, by reason of what is called the doctrine of State Rights. Democrat and Republican, men of the South and men of the North now agree in exercising without a scruple the power of Congress to protect American industries by the tariff, to endow and to subsidize railroads across the continent, and to build an Oceanic canal.

I have in my possession, in Roger Sherman's and James Madison's handwriting, a paper which contains the first statement of a controversy which divided parties and sec-

tions, which inspired Nullification, and which entered largely in the strife which brought on the Civil War.

(In Roger Sherman's handwriting.)

"You will admit that Congress have power to provide by law for raising, depositing and applying money for the purposes enumerated in the Constitution." X (and generally of regulating the finances). "That they have power so far as no particular rules are pointed out in the Constitution to make such rules and regulations as they may judge necessary and proper to effect these purposes. The only question that remains is—Is a bank (a necessary and) a proper measure for effecting these purposes? And is not this a question of expediency rather than of right?"

(The following, on the same slip of paper, is in James Madison's handwriting.)

"Feb. 4, 1791. This handed to J. M. by Mr. Sherman during the debate on the constitutionality of the bill for a National bank. The line marked X given up by him on the objection of J. M. The interlineation of 'a necessary &' by J. M. to which he gave no other answer than a smile."

The other matter relates to the power of removal from office. Upon that the Constitution is silent. In the beginning two views were advocated. There was a great debate in 1789, which Mr. Evarts declares, "decidedly the most important and best considered debate in the history of Congress." The claim that the power of removal is vested absolutely in the President by the Constitution prevailed in the House of Representatives, under the lead of Madison, by a majority of twelve, and by the casting vote of John Adams in the Senate. Mr. Madison said:

"The decision that is at this time made will become the permanent exposition of the Constitution; and on a permanent exposition of the Constitution will depend the genius and character of the whole Government."

One party claimed that the power of removal was a necessary incident to the power of appointment, and vested in

the President by virtue of his power to appoint. It was claimed also on the same side that the President's duty to see the laws faithfully executed could not be discharged if subordinates could be kept in office against his will. In most cases the President never executes the laws himself, but only has to see them executed faithfully.

This view prevailed, as we have seen, in Washington's Administration. It continued to be acted upon till the time of President Johnson. In General Jackson's time its soundness was challenged by Webster, Calhoun and Clay. But there was no attempt to resist it in practice. Mr. Webster in 1835 earnestly dissented from the original decision, while he admitted that he considered it "a settled point; settled by construction, settled by precedent, settled by the practice of the Government, and settled by statute." It remained so settled, until, in the strife which followed the rebellion, a two-thirds majority in Congress was induced by apprehension of a grave public danger to attempt to wrest this portion of the executive power from the hands of Andrew Johnson. The statute of March 2, 1867, as construed by nearly two-thirds of the Senate, enacted that officers appointed by the predecessor of President Johnson, who, by the law in force when they were appointed, and by the express terms of their commission, were removable at the pleasure of the President, should remain in office until the Senate should consent to the appointment of their successors, or approve their removal.

In 1867 Congress undertook to determine by statute the construction of the Constitution as to this disputed question. Some persons claimed that that power existed in the provision—"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department officer thereof."

The Constitutionality and effect of this statute were debated on the trial of President Johnson. But it served its purpose during the last two years of Johnson's Administration. Five days after Grant's inauguration, the House of

Representatives, by a vote of 138 to 16, passed a bill totally repealing it. The Senate was unwilling to let go the hold which it had acquired on the Executive power, but proposed to suspend the law for one year, so that there might be no obstacle in the path of General Grant to the removal of the obnoxious officials who had adhered to Andrew Johnson. So a compromise was agreed upon. It permitted the President to suspend officers during the vacation of the Senate, but restored officers so suspended at the close of the next session, unless, in the meantime, the advice and consent of the Senate had been obtained to a removal or the appointment of a successor.

President Grant, in his message of December, 1869, urged the repeal of this modified act on the ground that—

"It could not have been the intention of the framers of the Constitution that the Senate should have the power to retain in office persons placed there by Federal appointment, against the will of the President. The law is inconsistent with a faithful and efficient administration of the Government. What faith can an Executive put in officials forced on him, and those, too, whom he has suspended for reason? How will such officials be likely to serve an Administration which they know does not trust them?"

The House acted on this recommendation, and passed a bill for the repeal of the statutes of 1867 and 1869 by a vote of 159 to 25. For this bill the whole Massachusetts delegation, including Mr. Dawes and myself, voted. It was never acted on by the Senate. In 1872 a similar bill passed the House without a division.

The Democratic Party has invariably supported the position of Madison and Jackson, that the power of removal is vested by the Constitution in the President, and cannot be controlled by legislation.

This was the condition of matters when Mr. Cleveland came into office March 4, 1885. The Revised Statutes, Sections 1767–1772, contained in substance the law as it was left by the legislation of 1867 and 1869 (Sec. 1767): "Every person holding any civil office to which he has been

or hereafter may be appointed by and with the consent of the Senate, and who shall have become duly qualified to act therein, shall be entitled to hold such office during the term for which he was appointed, unless sooner removed by and with the advice and consent of the Senate, or by the appointment, with the like advice and consent, of a successor, in his place, except as herein otherwise provided."

The President was however authorized to suspend civil officers during the recess, except Judges, until the next session of the Senate, and to designate a substitute who should discharge the duties of the office, himself being subject to removal by the designation of another.

The President was further required to nominate within thirty days after the commencement of each session of the Senate persons to fill all vacancies in office, which existed at the meeting of the Senate, whether temporarily filled or not, and in place of all officers suspended. If no appointment were made, with the advice and consent of the Senate during such session, the office was to be in abeyance.

It will be seen that this statute required the assent of the Senate to the exercise of the President's power of removal, although without its consent he could suspend the officer so as to deprive him of the emoluments of his office.

So the appointment of a new officer by the advice and consent of the Senate operated in such case as a removal of the person then holding office, and a failure of the Senate to confirm such proposed appointment had the effect to restore the officer suspended, or temporarily removed.

Under these conditions there grew up a very earnest controversy between President Cleveland and the Republican majority in the Senate, led by the Judiciary Committee, of which Mr. Edmunds was then Chairman. It has been, I suppose from the beginning of the Government, the practice of the President to furnish to the Senate all papers and documents in his possession relating to the fitness of officials nominated to the Senate.

Mr. Cleveland made no objection, if I understood him correctly, to continuing that practice. But he claimed that the Senate had nothing to do with the exercise of his power of

removal, and therefore was not entitled to be informed of the evidence upon which he acted in that. So he refused and sustained the heads of Departments in refusing the request of the Senate to send for its information the documents on file relating to removals.

This position was encountered by the Republican majority, some of them claiming that the Senate had the same rightful share in the removals as in appointments, and that no difference was to be made between the two cases. Others believed, as I did, that although the power of removal might be exercised by the President alone on his own responsibility, without requiring the advice and consent of the Senate, still that while the President was proceeding under the law by which the appointment itself operated as a removal, and a failure to affirm the appointment restored the old officer to his place again, that the Senate whose action was to have that important effect, was entitled not only to know whether the public interest would be served by the appointment of the proposed official on his own merits solely, but also whether it would be best served by the removal of his predecessor or by the restoration to office of his predecessor. Both the President and the Senate were acting under the existing law, treating it as in force and valid. Now suppose it were true that the question of advising and consenting to the appointment proposed by the President were a very doubtful one indeed, the question on its merits being closely balanced; and the officer to be removed or restored according as the Senate should consent or refuse to consent, was a man of conspicuous and unquestioned capacity and character, against whom no reasonable objection was brought, to be removed for political reasons solely. The Senate certainly, in exercising its power had the right to consider all that the President had a right to consider, and therefore it seems to me that we were justified, in that class of cases, in asking for the documents in his possession bearing upon the question of removal.

It will be observed that in none of the arguments of this Constitutional question has it been claimed that the Presi-

dent had the right without statute authority to suspend public officers, even if he had the right to remove them. That right, if he had it at all, he got under the statute under which he and the Senate were acting.

On the 17th of July, 1885, the President issued an order suspending George M. Duskin of Alabama, from the office of Attorney of the United States, by virtue of the authority conferred upon him by Sec. 1768 of the Revised Statutes, which is a reenactment of the law of which I have just spoken.

On the 14th of December, 1885, the President nominated to the Senate John D. Burnett, vice George M. Duskin, suspended. The Chairman of the Committee on the Judiciary, as had been usual in such cases, addressed a note to the Attorney-General, asking that all papers and information in the possession of the Department touching the conduct and administration of the officer proposed to be removed, and touching the character and conduct of the person proposed to be appointed, be sent to the Committee for its information. To this the Attorney-General replied that he was directed by the President to say that there had been sent already to the Judiciary Committee all papers in the Department relating to the fitness of John D. Burnett, recently nominated, but that it was not considered that the public interests would be promoted by a compliance with said resolution and the transmission of the papers and document therein mentioned to the Senate in Executive session.

That made a direct issue. Thereupon a very powerful report affirming the right of the Senate to require such papers was prepared by Mr. Edmunds, Chairman of the Committee on the Judiciary, and signed by George F. Edmunds, Chairman, John J. Ingalls, S. J. R. McMillan, George F. Hoar, James F. Wilson and William M. Evarts.

This was accompanied by a dissenting report by the minority of the Committee, signed by James L. Pugh, Richard Coke, George C. Vest and Howell E. Jackson, afterward Associate Justice of the Supreme Court of the United States.

So it will be seen that the two sides were very powerfully represented. The report of the Committee was encountered

by a message from President Cleveland, dated March 1, 1886, in which the President claimed that these papers in the Attorney-General's Department were in no sense upon its files, but were deposited there for his convenience. He said: "I suppose if I desired to take them into my custody I might do so with entire propriety, and if I saw fit to destroy them no one could complain." Continuing, the President says that the demands of the Senate "assume the right to sit in judgment upon the exercise of my exclusive discretion and Executive function, for which I am solely responsible to the people from whom I have so lately received the sacred trust of office."

He refers to the laws upon which the Senate based its demand and said: "After an existence of nearly twenty years of almost innocuous desuetude these laws are brought forth—apparently the repealed as well as the unrepealed—and put in the way of an Executive who is willing, if permitted, to attempt an improvement in the methods of administration. The Constitutionality of these laws is by no means admitted."

The President seemed to forget that he had taken action under those laws, and had expressly cited them as the authority for his action, in his message announcing the suspension of the official.

The controversy waxed warm in the Senate, and in the press throughout the country. The effect of it was that the confirmation of Mr. Cleveland's nominees for important offices was postponed for several months, in some cases eight to ten, but as they were exercising their functions under temporary appointments, it made no difference to them. When they were at last confirmed by the Senate, they received commissions dated from the appointment which took place after the advice and consent of the Senate. So the four years, for which they could hold office, began to run then, and when a new Administration of different politics came into power, they held their office for a period considerably more than four years, except a few who were actually removed by President Harrison.

I do not think the people cared much about the dispute.

The sympathy was rather with President Cleveland. The people, both Republicans and Democrats, expected that the political control of the more important offices would be changed when a new party came into power, and considered Mr. Edmunds's Constitutional argument as a mere ingenious device to protract the day when their political fate should overtake the Republican officials.

I united with the majority of the Committee in the report, for the reasons I have stated above. I still think the position of the Senate right, and that of the President wrong. But I never agreed to the claim that the Senate had anything to do with the President's power of removal. So I took the first opportunity to introduce a bill repealing the provisions of the statute relating to the tenure of office, which interfered with the President's power of removal, so that we might go back again to the law which had been in force from the foundation of the Government, in the controversy with President Jackson. A majority of the Republicans had attempted to do that, as I have said, in the first session of Congress under President Grant. But it had been defeated by the Senate. So I introduced in the December session, 1886, a bill which became a law March 3, 1887, as follows :

"Be enacted, etc., That sections 1767, 1768, 1769, 1770, 1771, and 1772 of the Revised Statutes of the United States are hereby repealed.

"Sec. 2. This repeal shall not affect any officer heretofore suspended under the provisions of said sections, or any designation, nomination or appointment heretofore made by virtue of the provisions thereof.

"Approved, March 3, 1887."

But the blood of my Republican associates was up. I got a few Republican votes for my Bill. It passed the House by a vote of 172 to 67. Every Massachusetts Representative voted for the Bill, as did Speaker Reed. But in general the votes against it were Republican votes. Governor Long made an able speech in its favor.

In the Senate three Republicans only voted with me. Among the nays were several Senators who, as members of the House, had voted for a Bill involving the same principle in 1869. Mr. Evarts, though absent at the time of the vote, declared his approval of the Bill in debate; and so, I think, did Mr. Dawes, although of that I am not sure. Mr. Edmunds opposed it with all his might and main.

Mr. Sherman, always a good friend of mine, remonstrated with me. He asked me with great seriousness, if I was conscious of the extent of the feeling among the Republicans of the Senate at my undertaking to act in opposition to them on this and one or two other important matters, to which he alluded. I replied that I must of course do what seemed to be my duty, and that in my opinion I was rendering a great service to the Republican Party in getting rid of the controversy in which the people sympathized generally with the Democrats, and that I thought the gentlemen who differed from me, would come to my way of thinking pretty soon. The result proved the soundness of my judgment. I do not think a man can be found in the Senate now who would wish to go back to the law which was passed to put fetters on the limbs of Andrew Johnson. I have asked several gentlemen who voted against the repeal whether they did not think so, and they all now agree that the measure was eminently wise and right. The opposition to the statute of 1887 was but the dying embers of the old fires of the Johnson controversy.

CHAPTER XII

FISHERIES

If, on looking back, I were to select the things which I have done in public life in which I take most satisfaction, they would be, the speech in the Senate on the Fisheries Treaty, July 10, 1888, the letter denouncing the A. P. A., a secret, political association, organized for the purpose of ostracizing our Catholic fellow-citizens, and the numerous speeches, letters and magazine articles against the subjugation of the Philippine Islands.

I do not think any one argument, certainly that my argument, caused the defeat of the Fisheries Treaty, negotiated by Mr. Joseph Chamberlain and Mr. Bayard during Mr. Cleveland's first Administration. The argument against it was too strong not to have prevailed without any one man's contribution to it; and the Senate was not so strongly inclined to support President Cleveland as to give a two-thirds majority to a measure, unless it seemed clearly for the public interest. He had his Republican opponents to reckon with, and the Democrats in the Senate disliked him very much, and gave him a feeble and half-hearted support.

The question of our New England fisheries has interested the people of the country, especially of New England, from our very early history. Burke spoke of them before the Revolutionary War, as exciting even then the envy of England. One of the best known and most eloquent passages in all literature is his description of the enterprise of our fathers. Burke adds to that description:

"When I reflect upon the effects, when I see how profitable they have been to us, I feel all the pride of power sink, and all presumption in the wisdom of human contrivances

melt and die away within me. My rigor relents. I pardon something to the spirit of Liberty."

The War of the Revolution, of course, interrupted for a time the fisheries of the American colonies. But the fishermen were not idle. They manned the little Navy whose exploits have never yet received from history its due meed of praise. They furnished the ships' companies of Manly and Tucker and Biddle and Abraham Whipple. They helped Paul Jones to strike terror into St. George's Channel. In 1776, in the first year of the Revolutionary War, American privateers, most of them manned by our fishermen, captured three hundred and forty-two British vessels.

The fisheries came up again after the war. Mr. Jefferson commended them to the favor of the nation in an elaborate and admirable report. He said that before the war 8,000 men and 52,000 tons of shipping were annually employed by Massachusetts in the cod and whale fisheries. England and France made urgent efforts and offered large bounties to get our fishermen to move over there.

For a long time the fisheries were aided by direct bounties. Later the policy of protection has been substituted.

John Adams has left on record that when he went abroad as our representative in 1778, and again when the Treaty of 1783 was negotiated, his knowledge of the fisheries and his sense of their importance were what induced him to take the mission. He declared that unless our claims were fully recognized, the States would carry on the war alone. He said:

"Because the people of New England, besides the natural claim of mankind to the gifts of Providence on their coast, are specially entitled to the fishery by their charters, which have never been declared forfeited."

In the debate on the articles of peace in the House of Lords, Lord Loughborough, the ablest lawyer of his party, said:

"The fishery on the shores retained by Britain is in the next article not ceded, but recognized as a right inherent in

the Americans, which though no longer British subjects, they are to continue to enjoy unmolested."

This was denied nowhere in the debate.

John Adams took greater satisfaction in his achievement which secured our fisheries in the treaty of 1783 than in any other of the great acts of his life.* After the treaty of 1783 he had a seal struck with the figures of the pine tree, the deer and the fish, emblems of the territory and the fisheries secured in 1783. He had it engraved anew in 1815 with the motto, "Piscemur, venemur, ut olim." I have in my possession an impression taken from the original seal of 1815. This letter from John Quincy Adams tells its story:

"Quincy, September 3, 1836.

"*My Dear Son:* On this day, the anniversary of the definitive treaty of peace of 1783, whereby the independence of the United States of America was recognized, and the anniversary of your own marriage, I give you a seal, the impression upon which was a device of my father, to commemorate the successful assertion of two great interests in the negotiation for the peace, the liberty of the fisheries, and the boundary securing the acquisition of the western lands. The deer, the pine tree, and the fish are the emblems representing those interests.

"The seal which my father had engraved in 1783 was without the motto. He gave it in his lifetime to your deceased brother John, to whose family it belongs. That which I now give to you I had engraved by his direction at London in 1815, shortly after the conclusion of the treaty of peace at Ghent, on the 24th of December, 1814, at the negotiation of which the same interests, the fisheries, and the bounty had been deeply involved. The motto, 'Piscemur, venemur, ut olim,' is from Horace.

"I request you, should the blessing of heaven preserve the life of your son, Charles Francis, and make him worthy of your approbation, to give it at your own time to him as a token of remembrance of my father, who gave it to me, and of yours. John Quincy Adams."

"My son Charles Francis Adams."

* See Ante, p. 131.

The negotiations of 1815 and 1818 were under the control of as dauntless and uncompromising a spirit, and one quite as alive to the value of the fisheries and the dishonor of abandoning them as that of John Adams himself. If John Quincy Adams, the senior envoy at Ghent, and the Secretary of State in 1818, had consented to a treaty bearing the construction which is lately claimed he never could have gone home to face his father. When the War of 1812 ended, Great Britain set up the preposterous claim that the war had abrogated all treaties, and that with the treaty of 1783 our rights in the fisheries were gone. There was alarm in New England; but it was quieted by the knowledge that John Quincy Adams was one of our representatives. It was well said at that time that, as

"John Adams saved the fisheries once, his son would a second time."

When someone expressed a fear that the other commissioners would not stand by his son, the old man wrote in 1814, that—

"Bayard, Russell, Clay, or even Gallatin, would cede the fee-simple of the United States as soon as they would cede the fisheries" (pp. 21–22).

These fisheries still support the important city of Gloucester, and are a very valuable source of wealth to the hardy and enterprising people who maintain them. Their story is full of romance. A touching yearly ceremonial is celebrated at the present time in Gloucester in commemoration of the men who are lost in this dangerous employment.

But the value of the fisheries does not consist chiefly in historic association or in the wealth which they contribute to any such community.

They are the nursery of seamen, more valuable and less costly than the Naval School at Annapolis. They train the men who are employed in them to get to be at home on the sea. They are valuable for naval officers and for sailors. Whenever there shall be a war with a naval power, they

will be thrown out of employ, and will seek service in our Navy. All the English authorities, I believe, concur in this opinion. I read in my speech a very interesting letter from Admiral Porter who testified strongly to that effect.

While it is true that many of our common sailors engaged in our cod and other fisheries are of foreign birth, it is equally true that they, almost all of them, come to live in this country, get naturalized and become ardent Americans. This is true of the natives of the British Dominions. But it is still more true of the Scandinavians, a hardy and adventurous race, faithful and brave, who become full of the spirit of American nationality.

Mr. Bayard who was, I think, inspired by a patriotic and praiseworthy desire to establish more friendly relations with Great Britain, seemed to me to give away the whole American case, and to have been bamboozled by Joseph Chamberlain at every point. The Treaty gave our markets to Canada without anything of value to us in return, and afforded no just indemnity for the past outrages of which we justly complained, and gave no security for the future.

The Treaty, which required a two-thirds majority for its ratification, was defeated by a vote of twenty-seven yeas to thirty nays. There were nine Senators paired in the affirmative, and eight in the negative. The vote was a strict party vote, with the exception of Messrs. Palmer and Turpie, Democrats, who were against it.

I discussed the subject with great earnestness, going fully into the history of the matter, and the merits of the Treaty. I think I may say without undue vanity that my speech was an important and interesting contribution to a very creditable chapter of our history.

CHAPTER XIII

THE FEDERAL ELECTIONS BILL

In December, 1889, the Republican Party succeeded to the legislative power in the country for the first time in sixteen years. Since 1873 there had been a Democratic President for four years, and a Democratic House or Senate or both for the rest of the time. There was a general belief on the part of the Republicans, that the House of Representatives, as constituted for fourteen years of that time, and that the Presidency itself when occupied by Mr. Cleveland, represented nothing but usurpation, by which, in large districts of the country, the will of the people had been defeated. There were some faint denials at the time when these claims were made in either House of Congress as to elections in the Southern States. But nobody seems to deny now, that the charges were true. Mr. Senator Tillman of South Carolina stated in my hearing in the Senate:

"We took the Government away. We stuffed ballot boxes. We shot them. We are not ashamed of it. The Senator from Wisconsin would have done the same thing. I see it in his eye right now. He would have done it. With that system—force, tissue ballots, etc.—we got tired ourselves. So we called a Constitutional Convention, and we eliminated, as I said, all of the colored people whom we could under the fourteenth and fifteenth amendments.

"I want to call your attention to the remarkable change that has come over the spirit of the dream of the Republicans; to remind you, gentlemen of the North, that your slogans of the past—brotherhood of man and fatherhood of God—have gone glimmering down the ages. The brotherhood of man exists no longer, because you shoot

negroes in Illinois, when they come in competition with your labor, and we shoot them in South Carolina, when they come in competition with us in the matter of elections. You do not love them any better than we do. You used to pretend that you did; but you no longer pretend it, except to get their votes.

"You deal with the Filipinos just as you deal with the negroes, only you treat them a heap worse."

No Democrat rose to deny his statement, and, so far as I know, no Democratic paper contradicted it. The Republicans, who had elected President Harrison and a Republican House in 1888, were agreed, with very few exceptions, as to the duty of providing a remedy for this great wrong. Their Presidential Convention, held at Chicago in 1888, passed a resolution demanding, "effective legislation to secure integrity and purity of elections, which are the fountains of all public authority," and charged that the "present Administration and the Democratic majority in Congress owe their existence to the suppression of the ballot by a criminal nullification of the Constitution and the laws of the United States."

In the Senate at the winter session of 1888 and at the beginning of the December session of 1889, a good many Bills were introduced for the security of National elections. Similar Bills were introduced in the House. A special Committee was appointed there to deal with that subject. I had, myself, no doubt of the Constitutional authority of Congress, and of its duty, if it were able, to pass an effective law for that purpose.

I was the Chairman of the Committee on Privileges and Elections, and it was my duty to give special attention to that subject. I had carefully prepared a Bill in the vacation, based on one introduced by Mr. Sherman, providing for holding, under National authority, separate registrations and elections for Members of Congress. But when I got to Washington, I found, on consultation with every Republican Senator except one, that a large majority were averse to an arrangement which would double the cost of elections

throughout the country, and which, in States where personal registration every year is required, would demand from every citizen his presence at the place of polling or registration four times every alternate year. That is, in the years when there were Congressmen to be elected he must go twice to be registered—once for the State election, and once for the Congressional—and twice to vote. So I drew another Bill. I say I drew it. But I had the great advantage of consultation with Senator Spooner of Wisconsin, a very able lawyer who had lately come to the Senate, and I can hardly say that the Bill, as it was finally drafted, was more mine or his. This Bill provided, in substance, that there should be National officers of both parties who should be present at the registration and election of Members of Congress, and at the count of the vote, and who should know and report everything which should happen, so that all facts affecting the honesty of the election and the return might be before the House of Representatives. To this were added some sections providing for the punishment of bribery, fraud and misconduct of election officers.

In the meantime the House of Representatives had appointed a special Committee charged with a similar duty. Members of that Committee saw me, and insisted, with a good deal of reason, that a measure which concerned the election of members of the House of Representatives, should originate in that body. Accordingly the Senate Committee held back its Bill, and awaited the action of the House, which sent a Bill to the Senate, July 15, 1890. The House Bill dealt not only with the matter of elections, but also with the selection of juries, and some other important kindred subjects. Our Committee struck out from it everything that did not bear directly on elections; mitigated the severity of the penalties, and reduced the bulk of the Bill very considerably. The measure was reported in a new draft by way of substitute. It remained before the Senate until the beginning of the next Session, when it was taken up for action. It was a very simple measure.

It only extended the law which, with the approbation of both parties, had been in force in cities of more than twenty

thousand inhabitants, to Congressional districts, when there should be an application to the Court, setting forth the necessity for its protection. That law had received the commendation of many leading Democrats, including S. S. Cox, Secretary Whitney, the four Democratic Congressmen who represented Brooklyn, and General Slocum, then Representative at large from the State of New York. It had been put in force on the application of Democrats quite as often as on that of Republicans. We added to our Bill a provision that in case of a dispute concerning an election certificate, the Circuit Court of the United States in which the district was situated should hear the case and should award a certificate entitling the member to be placed on the Clerk's roll, and to hold his seat until the House itself should act on the case. That provision was copied from the English law of 1868 which has given absolute public satisfaction there. This was the famous Force Bill, and the whole of it—a provision that, if a sufficient petition were made to the court for that purpose, officers, appointed by the court, belonging to both parties should be present and watch the election; that the Judge of the Circuit Court should determine, in case of dispute, what name should be put on the roll of the House of Representatives, in the beginning, subject to the Constitutional power of the House to correct it, and that a moderate punishment for bribery, intimidation and fraud, on indictment and conviction by a jury of the vicinage, should be imposed. That was the whole of it.

But the Southern Democratic leaders, with great adroitness, proceeded to repeat the process known as "firing the Southern heart." They persuaded their people that there was an attempt to control elections by National authority. They realized that the waning power of their party at the South, many of whose business men saw that the path of prosperity for the South as well as for the North lay in the adoption of Republican policies, might be reestablished by exciting the fear of negro domination. The Northern Democrats, either very ignorantly or wilfully, united in the outcry. Governor William E. Russell of Massachusetts, a

gentleman of large influence and popularity with both parties, telegraphed to President Cleveland a pious thanksgiving for the defeat of this "wicked Bill."

Some worthy Republican Senators became alarmed. They thought, with a good deal of reason, that it was better to allow existing evils and conditions to be cured by time, and the returning conscience and good sense of the people, rather than have the strife, the result of which must be quite doubtful, which the enactment and enforcement of this law, however moderate and just, would inevitably create.

On reflection, I came myself to the conclusion that, while the Bill was reasonable and there was no reasonable doubt of the power of Congress to enact it, yet the attempt to pass it, if it were to fail, would do the cause infinite mischief. It would be an exhibition of impotence, always injurious to a political party. It would drive back into the Democratic Party many men who were afraid of negro domination; who looked with great dislike on the assertion of National power over elections, and whom other considerations would induce to act with the Republicans. So I thought it was best to ascertain carefully the prevailing opinion and see if we were likely to get the Bill through, and, if we found that unlikely, not to proceed far enough to have a debate in either House.

Accordingly I visited the House of Representatives, saw several of my Massachusetts colleagues and some other leaders. They agreed that, if I found that the Bill could not, in all probability, pass the Senate, it should be arranged to lay it aside in the House without making any serious movement for it there. After that arrangement was made there was a Senate caucus. I brought up the matter and moved the appointment of a Committee to consider the whole question of legislation with reference to the security of elections. A gentleman who had recently become a Member of the Senate rose and quite angrily objected to taking up the matter for consideration. He declared that he would not consent to have the subject introduced in a Republican caucus. The proceedings of such caucuses are supposed to be kept from the public. But they are pretty

sure to leak out. I could not very well get up and say that my reason for asking for a committee was to see whether the law should be suppressed or not. So I did not urge my motion. But I did the best I could.

Before reporting the Bill I saw every Republican Senator and obtained his opinion upon it. I have in my possession the original memoranda of the various answers. Not only a majority of the Republican Senators, but a majority of the whole Senate declared emphatically for an Election Bill. I further consulted them whether the authority, in case of a disputed election, to order, upon hearing, the name of the person found to be elected to be placed on the roll should be lodged in the United States Courts, or in some special tribunal. Two or three preferred that the court should not be invoked. But a majority of the whole Senate favored vesting the power in the courts, and those who preferred another way stated that they were willing to abide by the judgment of the Committee.

When the House Bill came up, it was, on the 7th of August, 1890, reported favorably with my Bill as a substitute. Meantime the McKinley Tariff Bill, which Mr. Cleveland had made, so far as he could, the sole issue in the late election, had been matured and reported. It affected all the business interests of the country. They were in a state of uncertainty and alarm. Mr. Quay of Pennsylvania proposed a resolution to the effect that certain enumerated measures, not including the Election Bill, should be considered at that session, and that all others should be postponed. That, I suppose, would have had the entire Democratic support and Republicans enough to give it a majority. It would have postponed the Election Bill without giving any assurance of its consideration at the short session. So a conference of Republicans was held at which an agreement was made, which I drew up, and signed by a majority of the entire Senate. It entitled the friends of the Election Bill to be assured that it would be brought to a vote and passed at the short session, if there were then a majority in its favor. This is the agreement, of which I have the original, with the original signatures annexed, in my possession.

"We will vote: 1. To take up for consideration on the first day of the next session the Federal Election Bill, and to keep it before the Senate to the exclusion of other legislative business, until it shall be disposed of by a vote. 2. To make such provision as to the time and manner of taking the vote as shall be decided, by a majority of the Republican Senators, to be necessary in order to secure such vote, either by a general rule like that proposed by Mr. Hoar, and now pending before the committee on rules, or by special rule of the same purport, applicable only to the Election Bill."

At the next December session the Bill was taken up for consideration and, after a few days' debate, there was a motion to lay it aside. Since the measure had been first introduced, the sentiment in certain parts of the country in favor of the free coinage of silver had been strengthened. Several of the Republican Senators were among its most zealous advocates. There was a motion to lay aside the Election Bill which was adopted by a bare majority—the Democrats voting for it and several of the Silver Republican Senators, so-called. All but one of these had signed their names to the promise I have printed. I never have known by what process of reasoning they reconciled their action with their word. But I know that in heated political strife men of honor, even men of ability, sometimes deceive themselves by a casuistic reasoning which would not convince them at other times.

The Election Bill deeply excited the whole country. Its supporters were denounced by the Democratic papers everywhere, North and South, with a bitterness which I hardly knew before that the English language was capable of expressing. My mail was crowded with letters, many of them anonymous, the rest generally quite as anonymous, even if the writer's name were signed, denouncing me with all the vigor and all the scurrility of which the writers were capable. I think this is the last great outbreak of anger which has spread throughout the American people.

I got, however, a good deal of consolation from the stanch friendship and support of the Republicans of Mas-

sachusetts, which never failed me during the very height of this storm. Whittier sent me a volume of poetry which he had just published, with the inscription written on the blank leaf in his own hand, "To George F. Hoar, with the love of his old friend, John G. Whittier." I think I would have gone through ten times as much objurgation as I had to encounter for those few words.

There has never since been an attempt to protect National elections by National authority. The last vestige of the National statute for securing purity of elections was repealed in President Cleveland's second Administration, under the lead of Senator Hill of New York. I have reflected very carefully as to my duty in that matter. I am clearly of the opinion that Congress has power to regulate the matter of elections of Members of the House of Representatives and to make suitable provisions for honest elections and an honest ascertainment of the result, and that such legislation ought to be enacted and kept on the statute book and enforced. But such legislation, to be of any value whatever, must be permanent. If it only be maintained in force while one political party is in power, and repealed when its antagonist comes in, and is to be constant matter of political strife and sectional discussion, it is better, in my judgment, to abandon it than to keep up an incessant, fruitless struggle. It is like legislation to prohibit by law the selling of liquor. I believe that it would be wise to prohibit the sale of liquor, with the exceptions usually made in prohibitory laws. But if we are to have in any State, as we have had in so many States, a prohibitory law one year, another with different provisions the next, a license law the next, and the difficulty all the time in enforcing any of them, it is better to give the attempt at prohibition up and to adopt a local option, or high license, or some other policy. In other words, it is better to have the second best law kept permanently on the statute book than to have the best law there half the time.

So, after Senator Hill's repealing act got through the Senate, I announced that, so far as I was concerned, and so far as I had the right to express the opinion of Northern

Republicans, I thought the attempt to secure the rights of the colored people by National legislation would be abandoned until there were a considerable change of opinion in the country, and especially in the South, and until it had ceased to become matter of party strife. To that announcement, Senator Chandler of New Hampshire, who had been one of the most zealous advocates of the National laws, expressed his assent. That statement has been repeated once or twice on the floor of the Senate. So far as I know, no Republican has dissented from it. Certainly there has been no Bill for that purpose introduced in either House of Congress, or proposed, so far as I know, in the Republican press, or in any Republican platform since.

The question upon which the policy of all National election laws depends is, At whose will do you hold your right to be an American citizen? What power can you invoke if that right be withheld from you? If you hold the right at will of your State, then you can invoke no power but the State for its vindication. If you hold it at the will of the Nation, as expressed by the people of the whole Nation under the Constitution of the United States, then you are entitled to invoke the power of the United States for its enforcement whenever necessary. If you hold it at the will of the white Democracy of any State or neighborhood then, as unfortunately seems to be the case in a good many States, you will be permitted to exercise it only if you are a white man, and then only so long as you are a Democrat.

I have had during my whole life to deal with that most difficult of all political problems, the relation to each other, in a Republic, of men of different races. It is a question which has vexed the American people from the beginning of their history. It is, if I am not much mistaken, to vex them still more hereafter. First the Indian, then the Negro, then the Chinese, now the Filipino, disturb our peace. In the near future will come the Italian and the Pole and the great population of Asia, with whom we are soon to be brought into most intimate and close relation.

In my opinion, in all these race difficulties and troubles, the fault has been with the Anglo-Saxon. Undoubtedly the

Indian has been a savage; the Negro has been a savage; the lower order of Chinamen have been gross and sometimes bestial. The inhabitants of the Philippine Islands, in their natural rights, which, as we had solemnly declared to be a self-evident truth, were theirs beyond question, have committed acts of barbarism. But in every case, these inferior and alien races, if they had been dealt with justly, in my opinion, would have been elevated by quiet, peaceful and Christian conduct on our part to a higher plane, and brought out of their barbarism. The white man has been the offender.

I have no desire to recall the story of the methods by which the political majorities, consisting in many communities largely of negroes and led by immigrants from the North, were subdued.

This is not a sectional question.

It is not a race question. The suffrage was conferred on the negro by the Southern States themselves. They can always make their own rules. If the negro be ignorant, you may define ignorance and disfranchise that. If the negro be vicious, you may define vice and disfranchise that. If the negro be poor, you may define poverty and disfranchise that. If the negro be idle, you may define idleness and disfranchise that. If the negro be lazy, you may define laziness and disfranchise that. If you will only disfranchise him for the qualities which you say unfit him to vote and not for his race or the color of his skin there is no Constitutional obstacle in your way.

So it was not wholly a race or a color problem. It was largely a question of party supremacy. In three states, Alabama, South Carolina and Florida, white Democrats charged each other with stifling the voice of the majority by fraudulent election processes, and in Alabama they claimed that a majority of white men were disfranchised by a false count of negro votes in the black belt.

It was not wholly unnatural that the men who, in dealing with each other, were men of scrupulous honor and of undoubted courage should have brought themselves to do such things, or at any rate to screen and sympathize with the

more hot-headed men who did them. The proof in the public records of those public crimes is abundant. With the exception of Reverdy Johnson of Maryland there is no record of a single manly remonstrance, or expression of disapproval from the lips of any prominent Southern man. But they had persuaded themselves to believe that a contest for political power with a party largely composed of negroes was a contest for their civilization itself. They thought it like a fight for life with a pack of wolves. In some parts of the South there were men as ready to murder a negro who tried to get an office as to kill a fox they found prowling about a hen roost. These brave and haughty men who had governed the country for half a century, who had held the power of the United States at bay for four years, who had never doffed their hats to any prince or noble on earth, even in whose faults or vices there was nothing mean or petty, never having been suspected of corruption, who as Macaulay said of the younger Pitt, "If in an hour of ambition they might have been tempted to ruin their country, never would have stooped to pilfer from her," could not brook the sight of a Legislature made up of ignorant negroes who had been their own slaves, and of venal carpet-baggers. They could not endure that men, some of whom had been bought and sold like chattels in the time of slavery, and others ready to sell themselves, although they were freemen, should sit to legislate for their States with their noble and brave history. I myself, although I have always maintained, and do now, the equal right of all men of whatever color or race to a share in the government of the country, felt a thrill of sadness when I saw the Legislature of Louisiana in session in the winter of 1873.

There was a good deal to provoke them also in the character of some of the Northern men who had gone to the South to take an active part in political affairs. Some of them were men of the highest character and honor, actuated by pure and unselfish motives. If they had been met cordially by the communities where they took up their abode they would have brought to them a most valuable quality of

citizenship. If Northern immigration and Northern capital had been welcomed at the South it would have had as helpful an influence as it had in California and Oregon. But the Southern men treated them all alike. I incline to think that a large number of the men who got political office in the South, when the men who had taken part in the Rebellion were still disfranchised, and the Republicans were still in power, were of a character that would not have been tolerated in public office in the North. General Willard Warner of Alabama, a brave Union soldier, a Republican Senator from that State, was one of the best and bravest men who ever sat in that body. Governor Packard of Louisiana was I believe a wise and honest man. But in general it was impossible not to feel a certain sympathy with a people, who whatever else had been their faults never were guilty of corruption or meanness, or the desire to make money out of public office, in the intolerable loathing which they felt for these strangers who had taken possession of the high places in their States.

President Grant gave the influence and authority of his Administration toward maintaining in power the lawfully chosen Republican State Governments. But in spite of all he could do they had all been overthrown but two when the Presidential election was held in 1876. Those two were South Carolina and Louisiana. The people of those two States had chosen Republican Governors at the State election held on the same day with the election of the President. But these Governors could not hold their power twenty-four hours without the support of the National Administration. When that was withdrawn the negro and carpet-bag majority was powerless as a flock of sheep before a pack of wolves to resist their brave and unscrupulous Democratic enemy, however inferior the latter in numbers.

In attempting to give a dispassionate account of the history of this great question which has entered so deeply into the political and social life of the American people almost from the beginning, it is hard to measure the influence of race prejudice, of sectional feeling, and of that other powerful motive, eagerness for party supremacy.

Suffrage was conferred upon the negro by the Southern States themselves. Under the Constitution every State can prescribe its own qualifications for suffrage, with the single exception that no State can deny or abridge the right of a citizen of the United States to vote on account of race, color or previous condition of servitude.

But I am bound to say, indeed it is but to repeat what I have said many times, that my long conflict with their leaders has impressed me with an ever-increasing admiration of the great and high qualities of our Southern people. I said at Chicago in February, 1903, what I said, in substance, twenty years before in Faneuil Hall, and at about the same time in the Senate:

"Having said what I thought to say on this question, perhaps I may be indulged in adding that although my life, politically and personally, has been a life of almost constant strife with the leaders of the Southern people, yet as I grow older I have learned, not only to respect and esteem, but to love the great qualities which belong to my fellow citizens of the Southern States. They are a noble race. We may well take pattern from them in some of the great virtues which make up the strength, as they make the glory, of Free States. Their love of home; their chivalrous respect for woman; their courage; their delicate sense of honor; their constancy, which can abide by an opinion or a purpose or an interest of their States through adversity and through prosperity, through the years and through the generations, are things by which the people of the more mercurial North may take a lesson. And there is another thing—covetousness, corruption, the low temptation of money has not yet found any place in our Southern politics.

"Now, my friends, we cannot afford to live, we don't wish to live, and we will not live, in a state of estrangement from a people who possess these qualities. They are our kindred; bone of our bone; flesh of our flesh; blood of our blood, and whatever may be the temporary error of any Southern State I, for one, if I have a right to speak for Massachusetts, say to her, 'Entreat me not to leave thee, nor to return from

following after thee. For where thou goest I will go, and where thou stayest, I will stay also. And thy people shall be my people, and thy God my God.'"

In July, 1898, I was invited to deliver an address before the Virginia Bar Association. I was received by that company of distinguished gentlemen with a hospitality like that I had found at Charleston the year before. Certainly the old estrangements are gone. I took occasion in my address to appeal to the Virginia Bar to give the weight of their great influence in sustaining the dignity and authority of the Supreme Court, in spite of their disappointment at some of its decisions of Constitutional questions. They received what I had to say, although they knew I differed from them on some of the gravest matters which concerned the State, and had been an anti-slavery man from my youth, with a respect and courtesy which left nothing to be desired. At the banquet which followed the address, this toast was given by William Wirt Henry, a grandson of Patrick Henry, himself one of the foremost lawyers and historians of the South. I prize very highly the original which I have in his handwriting.

"Massachusetts and Virginia.

"Foremost in planting the English Colonies in America;

"Foremost in resisting British tyranny;

"Foremost in the Revolution which won our Independence and established our free institutions;

"May the memories of the past be the bond of the future."

My own endeavor, during my long public life, has been to maintain the doctrine of the Declaration of Independence, which declares the right of every man to political equality by virtue of his manhood, and of every people to self-government by virtue of its character as a people. This our fathers meant to lay down as the fundamental law of States and of the United States, having its steadfast and immovable foundation in the law of God. It was never their purpose to declare that ignorance or vice or want of experience of the institutions of a country should not disqualify men from a share in the Government. Those things they meant

to leave to the discretion of the power, whether State or National, which was to prescribe the qualifications of suffrage. But they did not mean that the accident of birthplace, or the accident of race, or the accident of color, should enter into the question at all. To this doctrine I have, in my humble way, endeavored to adhere. In dealing with the Chinese, or any class of immigrants, I would prescribe as strict a rule as the strictest for ascertaining whether the immigrant meant in good faith to be an American citizen, whether he meant to end his life here, to bring his wife and children with him, whether he loved American institutions, whether he was fit to understand the political problems with which the people had to deal, whether he had individual worth, or health of body or mind. I would make, if need be, ten years or twenty years, as the necessary period of residence for naturalization.

I would deal with the Negro or the German or the Frenchman or the Italian on the same principle. But the one thing I have never consented to is that a man shall be kept out of this country, or kept in a position of inferiority, while he is in it, because of his color, because of his birthplace, or because of his race.

One matter in connection with the management of the Elections Bill I have never been able to think of since without a shudder. The Democrats in the Senate, led by Mr. Gorman, the most skilful of their leaders, endeavored to defeat the bill by the tactics of delay. If the debate could be prolonged so that it was impossible to get a vote without the loss of the great Appropriation Bills, or some of them, the bill, of course, must be laid aside. So the Republicans, on the other hand, as is usual in such cases, refrained from debate, leaving their antagonists to take up the time. Every afternoon at about five o'clock some Democrat would come to me saying that he was to take the floor, but that he did not feel well, or was not quite ready with some material, and ask me as a personal favor to let the matter go over until the next morning. This happened so often that I became satisfied it was a concerted scheme, and made up my mind that I would not yield to such a request again.

But one afternoon Senator Wilson of Maryland, a quiet and most estimable gentleman, whom I had known very well, and for whom I had a high regard, came to me and said he felt quite unwell; he could go on that afternoon, if I insisted upon it; but he would like much better to put off speaking till the next day. I was just beginning my answer to the effect that I had heard that so often that I had determined I would not yield again to the request. But I said to myself, It cannot be possible that this man would undertake to deceive me. He is a gentleman of high character, absolutely honorable and incapable of falsehood. So I answered, Of course, Mr. Wilson, if you are ill, I will consent to your desire. Mr. Wilson made his speech the next day. This was December 15. A few weeks after, on the 24th of February, Mr. Wilson died suddenly of heart disease. It was an affection of which he had been conscious for some years, and which he had for some time expected would cause sudden death. I dare say if he had been compelled to proceed with his speech that day it would have been fatal. In that case my life would have been embittered by the memory.

We had a meeting of the Republican members of the Committee, for consultation, before we reported the Bill. Mr. Evarts, while he approved the principle of the measure, shared very strongly my own hesitation, caused by the fear of the political effect of the defeat of a measure likely to excite so much angry strife throughout the country. After hearing the opinion of those who favored going on with the Bill, Mr. Evarts said: "I spent a Sunday with Judge Kent on the Hudson a good many years ago, with several New York lawyers. We all went to the Episcopal church in the forenoon, and dined with the Judge after church. During the service one of the company kept far behind in the responses, which annoyed the Judge a good deal. At dinner he broke out, 'Davis, why can't you descend into hell with the rest of the congregation?' I will descend into hell with the rest of the congregation."

Mr. Evarts made the descent and stood loyally by the measure in the debate to the best of his great ability.

CHAPTER XIV

CONSTITUTIONAL AMENDMENTS AND THE PRESIDENTIAL SUCCESSION BILL

When I entered the Senate, I found one very serious inconvenience and one very great public danger in existing conditions.

The great inconvenience grew out of the fact that by the Constitution the session of Congress must end on the fourth of March every other year. A third of the Senate goes out at the same time, and every fourth year the Presidential term ends. That session of Congress meets, according to our usage, on the first Monday of December. The meeting cannot well come much earlier without preventing the members of the two Houses of Congress from taking part in the political campaign, where they are justly expected by the people to give an account of their stewardship, and to discuss the questions to be considered by the people in the election. So there are but thirteen weeks in which to pass fourteen or fifteen great Appropriation Bills, making it impossible to deal with any other great subject except by unanimous consent. The result is also that the Appropriation Bills are put in the power of a very few men indeed. The House has to submit to the dictation of the Appropriation Committee, and cannot be allowed to debate, or even to have a separate vote on matters which nearly the whole House would like to accomplish, if there were time, but which the Chairman of the Appropriation Committee, who is usually omnipotent with his associates, may happen to dislike. On the other hand, in the Senate, where there is no cloture rule, any single member, or at best, a very few members, can defeat an Appropriation Bill and compel an extra session by exercising their right of uncontrolled debate.

Besides; people from all parts of the country like to attend the inauguration of a new President. The fourth of March is at an inclement season, and is apt to be an inclement day, and it may come on Saturday or Sunday or Monday. So persons who attend may be obliged to be away from home over Sunday, and a great many persons have lost their health or life from exposure in witnessing the inauguration.

I prepared a Constitutional amendment providing that the inauguration should take place on the last Thursday in April. I have reported this to the Senate several times. It has always passed that body with scarcely a dissenting vote, on debate and explanation. If that had been adopted, if the session were to begin in the middle of November, a week after the November elections—which could be accomplished by an act of Congress,—instead of thirteen weeks, to which the session is now limited, there would be a session of twenty-three or twenty-four weeks. This would give time for the consideration of such legislation as might be needful. It would probably, also, permit the shortening somewhat of the long session, which not infrequently extends to July or August. But the plan has never found much favor in the House. Speaker Reed, when he was in power, said rather contemptuously, that "Congress sits altogether too long as it is. The less we have of Congress, the better."

The public danger is found in the fact that there is no provision in the Constitution for the case where the President-elect dies before inauguration. The provision is:

"In case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice-President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice-President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability shall be removed, or a President shall be elected."

Strictly construed, it is only in the case of the death, inability, etc., of a President, that a Vice-President can succeed, or in case of the death, inability, etc., of the President and Vice-President both, that Congress has power to declare on whom the office shall devolve. It must be a President and Vice-President that die; not merely a President and Vice-President-elect. That this is not an imaginary danger is shown by the fact of the well-known scheme to assassinate Lincoln on his way to the seat of the Government, and also by the fact that either the President or the Vice-President has died in office so many times in the recollection of men now living. President Harrison died during his term; President Taylor died during his term; Vice-President King died during Pierce's term; Vice-President Wilson died during Grant's term; President Garfield died during his term; Vice-President Hendricks died during Cleveland's term; Vice-President Hobart died during McKinley's term, and President McKinley during his own second term. So within sixty years eight of these high officials have died in office; five of them within thirty years; four of them within twenty years.

I have also drawn and repeatedly procured the passage through the Senate of an amendment to the Constitution to protect the country against this danger. That also has failed of attention in the House. I suppose it is likely that nothing will be done about the matter until the event shall happen, as is not unlikely, that both President and Vice-President-elect shall become incapacitated between the election and the time for entering upon office.

I was more successful in providing against another situation that might prove quite awkward. In Washington's Administration Congress exercised, as far as it could, the power given by the Constitution to provide against the death or disability of both the President and Vice-President, if it should happen after they had entered upon office, as follows:

"In case of removal, death, resignation or inability of both the President and the Vice-President of the United States, the President of the Senate, or, if there is none, then

the Speaker of the House, for the time being, shall act as President, until the disability is removed or a President elected."

There is a tradition that when this awkward arrangement was made, the proposition that the Secretary of State should succeed in the case of such vacancy was defeated by the suggestion that Mr. Jefferson had too much power and consequence already. The arrangement seemed to me clearly objectionable. In the first place the Vice-President, who, it is supposed, has died or become incapable, is the Constitutional President of the Senate. The Senate, under the practice and construction of its power which prevailed down to a very recent period, only elected a President pro tempore when the Vice-President vacated the chair. His office terminated when the Vice-President resumed it, and there was no Constitutional obligation on the Senate to elect a President pro tempore at all. So it was quite uncertain whether there would be a President pro tempore of the Senate at any particular time, especially when the Senate was not in session. There have been two instances where the President of the Senate has refused to vacate the chair, for the reason that he did not desire to have a President pro tempore elected, and thereby have an honor conferred on a member of another party than his own. That happened once in the case of Vice-President Gerry, and again, within my personal knowledge, in the case of Vice-President Arthur. When he succeeded to the Presidency there was no President of the Senate who would have taken his place if he too had happened to be assassinated. So of the Speaker of the House. For a great many years the first session of a newly-elected House of Representatives has begun in December. There is no Speaker from the previous fourth of March until that time. Beside, the Senate, whose members hold office for six years and of whom only one-third goes out every two years, is very apt to have a majority whose political opinions are opposed to those which have prevailed in the last Presidential election. So, if the President and Vice-President both die before taking their

seats, the President of the Senate is quite likely to bring into the Executive Office opinions which the people have just rejected in the election.

On the other hand, the Secretary of State is always a member of the party that has prevailed in the last election, and is usually the member of the party, next to the President himself, highest in its confidence. Our Secretaries of State, with rare exceptions, have been among the very ablest public men of the country. Among them have been Timothy Pickering, John Marshall, James Madison, James Monroe, John Quincy Adams, Henry Clay, Martin Van Buren, Edward Livingston, Louis McLane, John Forsyth, Daniel Webster, John C. Calhoun, James Buchanan, John M. Clayton, Edward Everett, William L. Marcy, Lewis Cass, William H. Seward, Elihu B. Washburne, Hamilton Fish, William M. Evarts, James G. Blaine, Thomas F. Bayard, John Sherman, and John Hay. These men, with scarcely an exception, have been among the very foremost statesmen of their time. Several of them have been Presidents of the United States, and a good many more of them have been prominent candidates for the Presidency. On the other hand, the list of Presidents of the Senate contains few names of any considerable distinction. Another objection to the arrangement was the fact that the President of the Senate and the Speaker of the House might be changed at the will of the body that elected them. So the acting President might be displaced at the will of a political body. There is a good deal of reason, also, for claiming that if Congress declare that the officer should act as President, he must discharge the duties of his office and the duties of President at the same time, a burden which would be very hard for one man to support. Accordingly I drew and introduced the existing law, which reads as follows:

"*Be it enacted, etc.,* That in case of removal, death, resignation or inability of both the President and Vice-President of the United States, the Secretary of State, or if there be none, or in case of his removal, death, resignation or inability, then the Secretary of the Treasury, or if there be

none, or in case of his removal, death, resignation or inability, then the Secretary of War, or if there be none, or in case of his removal, death, resignation or inability, then the Attorney-General, or if there be none, or in case of his removal, death, resignation or inability, then the Secretary of the Interior, shall act as President until the disability of the President or Vice-President is removed or a President shall be elected:

"*Provided,* That whenever the powers and duties of the office of President of the United States shall devolve upon any of the persons named herein, if Congress be not then in session, or if it would not meet in accordance with law within twenty days thereafter, it shall be the duty of the person upon whom said powers and duties shall devolve to issue a proclamation convening Congress in extraordinary session, giving twenty days' notice of time of meeting.

"SEC. 2. That the preceding section shall only be held to describe and to apply to such officers as shall have been appointed by the advice and consent of the Senate to the offices therein named, and such as are eligible to the office of President under the Constitution, and not under impeachment by the House of Representatives of the United States at the time the powers and duties of the office shall devolve upon them respectively.

"SEC. 3. That sections one hundred and forty-six, one hundred and forty-seven, one hundred and forty-eight, one hundred and forty-nine and one hundred and fifty of the Revised Statutes are hereby repealed (*January* 19, 1886)."

There was some objection to it at first. It was resisted very strenuously to the end by Senator Edmunds. But after full discussion it passed the Senate with few dissenting votes.

In the House Mr. Reed, afterward Speaker, appealed without success to the political feeling of his associates, demanding to know if they would rather have Mr. Bayard, who was then Secretary of State, than John Sherman, who then happened to be President of the Senate, for President of the United States. But the House, also, by a large majority, passed the measure.

CHAPTER XV

PRESIDENT CLEVELAND'S JUDGES

I EARNESTLY supported William B. Hornblower against the opposition of Senator Hill, when he was nominated by Mr. Cleveland for Judge of the Supreme Court of the United States. I was then on the Judiciary Committee. I made very careful inquiry, and had reason to believe that the best lawyers in New York thought highly of him. Judge Gray told me that Mr. Hornblower had argued a case in the Court not long before, and that as the Judges walked out Judge Blatchford said to him: "I hope you have as good a man in your Circuit to succeed you, when the time comes, as we have in ours in Mr. Hornblower to succeed me."

I did not, however, support Mr. Wheeler H. Peckham. The newspapers circulated the story extensively that—to use the phrase of one of them—I "led the opposition." That was not true. I expected to vote for Mr. Peckham until just before the vote was taken. I had communicated my expectation to support him to Senator Vilas, who had charge of the case. I thought before the vote was taken it was my duty to tell him I had changed my mind. So I went round to his seat and told him. Nobody else knew my purpose till I voted.

I had no political sympathy with Senator Hill, still less with the claim often imputed to the Senate by writers of newspapers, but of which I have never seen the slightest evidence, that Senators have the right to dictate such appointments. But I thought Mr. Cleveland ought not to have made such an appointment without consulting Mr. Hill, who was a lawyer of eminence and knew the sentiment of the majority of the Democratic Party. Mr. Cleveland had nominated in succession two persons to an office which ought

to be absolutely non-partisan, who belonged to a very small company of men devoted to his personal fortunes, who had bitterly attacked Mr. Hill. I should not, however, have deemed this objection sufficient to justify a vote against Mr. Peckham, but for the fact that I became satisfied he was a man of strong prejudices, with little of the judicial temper or quality about him, and quite likely to break down under the strain of heavy responsibility.

I urged Mr. Vilas to ask President Cleveland to send in the name of Mr. Hornblower again, having some hope that the Senate would reconsider its action in his case. But President Cleveland solved the difficulty quite skilfully by sending in the name of Senator White of Louisiana, a most admirable gentleman and Judge, and afterward, when there came another vacancy, that of Rufus W. Peckham of New York, both of whom were confirmed, I believe, without an objection.

I just referred to Senator William F. Vilas, of Wisconsin. I should like to put on record my great esteem for his character as a man, and the excellence of his service as a Senator. He was on the Judiciary Committee while I was Chairman, and also for a time when his party had the majority. He was industrious, wise, conservative, courteous, and fair, a most admirable lawyer, full of public spirit, well acquainted with the mechanism of the Government, and doing always much more than his full share of the work of the Committee and of the Senate. I hope the country may have again the benefit of his great ability in some department of the public service.

Chief Justice Fuller said with singular felicity:

"Mr. Justice Lamar always underrated himself. This tendency plainly sprang from a vivid imagination. With him the splendid passions attendant upon youth never faded into the light of common day, but they kept before him as an ideal, the impossibility of whose realization, as borne in upon him from time to time, opposed him with a sense of failure. Yet the conscientiousness of his work was not

lessened, nor was the acuteness of his intellect obscured by these natural causes of his discontent; nor did a certain Oriental dreaminess of temperament ever allure him to abandon the effort to accomplish something that would last after his lips were dumb."

Matthew Arnold says in one of his essays that Americans lack distinction. I have a huge liking for Matthew Arnold. He had a wonderful intellectual vision. I do not mean to say that his three lectures on translating Homer are the greatest literary work of our time. But I think, on the whole, that I should rather have the pair of intellectual eyes which can see Homer as he saw him, than any other mental quality I can think of. But Mr. Arnold has never seemed to me to be fortunate in his judgment about Americans. He allows this quality of distinction to Grant, but denies it, for all the world, to Abraham Lincoln. The trouble with Mr. Arnold is that he never travelled in the United States, when on this side the Atlantic. He spent his time with a few friends who had little love for things American. He visited a great city or two, but never made himself acquainted with the American people. He never knew the sources of our power, or the spirit of our people.

Yet there is a good deal of truth in what he says of the Americans of our time. It is still more true of the Englishmen of our time. The newspaper, and the telegraph, and the telephone, and the constant dissemination of news, the public library and the common school and college mix us all up together and tend to make us, with some rare and delightful exceptions, eminently commonplace. Certainly the men who are sent to Congress do not escape this wearying quality. I know men who have been in public office for more than a generation, who have had enormous power and responsibility, to whom the country is indebted for safety and happiness, who never said a foolish thing, and rarely ever when they had the chance failed to do a wise one, who are utterly commonplace. You could not read the story of their public career without going to sleep. They never said anything worth quoting, and never did anything that any

other equally good and sensible man would not have done in their place. I have a huge respect for them. I can never myself attain to their excellence. Yet I would as lief spend my life as an omnibus horse as live theirs.

But we have occasionally some delightful exceptions. It so happens that some of the best, most attractive men I have known, were from the South. They are men who stood by the Southern people through thick and thin during the Rebellion, and in resisting every attempt on the part of the victorious Northern majority to raise the colored people to a political equality. They have all of them, I believe, been Free Traders. In general they have opposed the construction of the Constitution which has prevailed in New England and throughout the North, and in which I have myself always believed.

I have never had much personal intimacy with any of them. I have had some vigorous conflicts with one or two of them. Yet I have had from each before our association ended, assurances of their warm personal regard. One of them, perhaps, on the whole, the most conspicuous, is Lucius Q. C. Lamar. His very name, Lucius Quintus Cincinnatus, indicates that his father must have looked for his example for his son to follow far away from the American life about him.

Lamar was one of the most delightful of men. His English style, both in conversation and in public speaking, was fresh and original, well adapted to keep his hearers expectant and alert, and to express the delicate and subtle shades of meaning that were required for the service of his delicate and subtle thought.

He had taken the part of the South with great zeal. He told me shortly before he left the Senate that he thought it was a great misfortune for the world that the Southern cause had been lost. He stood by his people, as he liked to call them, in their defeat and in their calamity without flinching or reservation. While he would, I am sure, have done nothing himself not scrupulously honorable, and while there was nothing in his nature of cruelty, still less of brutality, yet he did not stop to inquire into matters of right and wrong

when a Southerner had got into trouble, by reason of anything a white Democrat had done in conflict with the National authority. Yet Mr. Lamar desired most sincerely the reconciliation of the sections, that the age-long strife should come to an end and be forgotten, and that the whole South should share the prosperity and wealth and refinement and contentment, which submission to the new order of things would bring.

He was a far-sighted man. He was not misled by temporary excitement or by deference to the majority of his political friends who were less far-sighted than he, into any mistakes. When there was an attempt to break faith in regard to what was called the Wheeler compromise in the Democratic House, Mr. Lamar interposed and prevented it. Just after the count under the Electoral Commission had been completed, there was a very dangerous movement to delay action on the returns from Vermont, which would have prevented the completion of the work before the 4th of March. Mr. Lamar put forth all his powerful influence among his Democratic associates on the floor of the House, and saved the peace of the country. He knew very well that the cause of the South, as he would have called it, and the cause of the Democratic Party itself, would not be promoted by a new civil convulsion, still less by any breach of faith.

He voted against the free coinage of silver in spite of the fact that the people of his State earnestly favored it, and against the express instructions of its Legislature. In 1874, at a time when the passions of the Civil War seemed to blaze higher, and the angry conflict between the sections seemed to blaze higher even than during the war itself, he astonished and shocked the people of the South by pronouncing a tender and affectionate eulogy on Charles Sumner. He testified to Sumner's high moral qualities, to his intense love of liberty, to his magnanimity, and to his incapacity for a personal animosity, and regretted that he had restrained the impulse which had been strong on him to go to Mr. Sumner and offer him his hand and his heart with it. It would have been almost impossible for any other man who had done

either of these things to go back to Mississippi and live. But it never shook for a moment the love for Lamar of a people who knew so well his love for them.

Afterward Mr. Lamar was made an Associate Justice of the Supreme Court of the United States. I voted against him—in which I made a mistake—not because I doubted his eminent integrity and ability, but because I thought that he had little professional experience and no judicial experience, and that his health—he was then beginning to show signs of the disease which ended his life shortly after—was not sufficient for undertaking the great study and the labor which the new office would require. He was not long on the Bench, and was not greatly distinguished as a Judge. But he wrote a few opinions which showed his great intellectual capacity for dealing with the most complicated legal questions, especially such are apt to arise in patent cases.

He was a delightful man in ordinary conversation. He had an infinite wit and great sense of humor. He used to tell delightful stories of queer characters and events that had come within his own observation. My relations to him for a good while were entirely antagonistic. We had some very sharp controversies. He would never tolerate any expression, in his presence, of disrespect to Jefferson Davis. He would always meet the statement that Mr. Davis was a traitor with a vigorous denial. When I made a motion excepting Jefferson Davis from the benefit of the bill to pension the soldiers of the Mexican War, Mr. Lamar compared him to Prometheus, and me to the vulture preying upon his liver. He was the last person from whom I should have expected an expression of compliment, or even of kindness in those days. Yet when the question of my reelection was pending in 1883 and the correspondent of a newspaper which was among my most unrelenting and unscrupulous opponents thought he might get some material which would help him in his attacks, called upon Mr. Lamar in the Democratic cloak room, and asked him what he thought of me, Mr. Lamar replied in language which seems almost ridiculous to quote, and which was inspired only by his indignation at the attempt to use him for such a purpose: "Sir, Massa-

chusetts has never been more powerfully represented in the Senate, not even in the time of Daniel Webster, than by Mr. Hoar."

It was with feeling of great pleasure that in 1886 I saw Harvard confer her highest honor on this delightful Mississippian.

He was, in his time, I think, the ablest representative, certainly among the ablest, of the opinions opposed to mine. He had a delightful and original literary quality which, if the lines of his life had been cast amid other scenes than the tempest of a great Revolution and Civil War, might have made him a dreamer like Montaigne; and a chivalrous quality that might have made him a companion of Athos and D'Artagnan.

His eulogy on Calhoun, with whom in general he sympathized, was a masterpiece of eloquence, but his eulogy on Charles Sumner, which probably no other man in the South could have uttered without political death, was greater still. It was a good omen for the country. At the moment he uttered it, I suppose Charles Sumner was hated throughout the South with an intensity which in this day of reconciliation it is almost impossible to conceive. Yet Mr. Lamar in his place in the House of Representatives dared to utter these sentences:

"Charles Sumner was born with an instinctive love of freedom, and was educated from his earliest infancy to the belief that freedom is the natural and indefeasible right of every intelligent being having the outward form of man. In him, in fact, this creed seems to have been something more than a doctrine imbibed from teachers, or a result of education. To him it was a grand intuitive truth, inscribed in blazing letters upon the tablet of his inner consciousness, to deny which would have been for him to deny that he himself existed. And along with this all-controlling love of freedom he possessed a moral sensibility keenly intense and vivid, a conscientiousness which would never permit him to swerve by the breadth of a hair from what he pictured to himself as the path of duty. Thus were combined in him

the characteristics which have in all ages given to religion her martyrs, and to patriotism her self-sacrificing heroes."

After speaking of the kindness of Mr. Sumner to the South, and his spirit of magnanimity, he added:

"It was my misfortune, perhaps my fault, personally never to have known this eminent philanthropist and statesman. The impulse was often strong upon me to go to him and offer him my hand, and my heart with it, and to express to him my thanks for his kind and considerate course toward the people with whom I am identified. If I did not yield to that impulse, it was because the thought occurred that other days were coming in which such a demonstration might be more opportune and less liable to misconstruction. Suddenly and without premonition, a day has come at last to which, for such a purpose, there is no to-morrow. My regret is therefore intensified by the thought that I failed to speak to him out of the fulness of my heart while there was yet time."

That Mr. Lamar well understood what was to be the effect of this wonderful speech upon the whole country is shown by his letter to his wife the next day, in which he says: "I never in all my life opened my lips with a purpose more single to the interests of our Southern people than when I made this speech."

I said of this speech in an article in the *North American Review:*

"The eloquent words of Mr. Lamar so touched the hearts of the people of the North that they may fairly be said to have been of themselves an important influence in mitigating the estrangements of a generation."

The following letter explains my absence from the Senate when Judge Lamar's death was announced:

WASHINGTON, D. C., January 29, 1893.

My Dear Madam:

I was kept in bed, under the orders of my physician, the day the death of your lamented husband was announced to the Senate. I regret exceedingly that I could not be in my place to express my sense of the great public loss and my warm personal admiration for his great qualities of intellect and of heart. I served with him in the House of Representatives for more than four years, and in the Senate for more than eight years. It was a stormy and exciting time. We differed widely on very grave questions, and this difference was more than once very sharply manifested in public; but the more I knew him, the more satisfied I became of the sincerity of his patriotism, of his profound and far-sighted wisdom, of the deep fountain of tenderness in his affectionate and simple heart, and of his brave and chivalrous quality of soul. I was more than once indebted to him for very great kindness indeed, under circumstances when I do not think he supposed it would ever come to my knowledge.

Some of his judgments on the Supreme Bench are characterized by marvellous beauty and felicity of style. He maintained his place on that great tribunal to the satisfaction of his friends and the admiration of his countrymen, in spite of failing health and of the fact that the best years of his life had been given to other studies than that of the law.

It is a good omen for our country that the friends and disciples of Charles Sumner unite with the people of Mississippi in their reverence for this noble and manly character.

I am faithfuly yours,

GEORGE F. HOAR.

Mrs. Lamar.

CHAPTER XVI

SOME SOUTHERN SENATORS

Another most delightful Democrat, with whom it was my pleasure to form quite intimate relations, was Senator Howell E. Jackson of Tennessee. He had been in the Confederate service. I think he did not approve Secession, but like most others who dwelt in the South, thought his allegiance primarily due to his State. He was an admirable lawyer, faithful, industrious, clear-headed and learned in the law. He had been a Whig before the war, and, like other Southern Whigs, favored a moderate protective tariff. He was anxious to have the South take her place as a great manufacturing community, for which her natural resources of iron and coal and her great water power gave her such advantages. He was opposed to the Republican measures of Reconstruction and to placing the negro on a political equality with the whites. But he also discountenanced and condemned any lawless violence or fraud.

Senator Jackson was appointed Judge of the United States Circuit Court by President Cleveland. He held that office when a vacancy on the Bench of the Supreme Court came by the death of Justice Lamar. The election of 1892 had resulted in the choice of President Cleveland. The Democrats in the Senate were determined that no Republican who should be nominated by President Harrison should be confirmed, and did not mean, if they could help it, that the place should be filled during the December session. The only way to get such a confirmation would be for the Republican majority to put the question ahead of all other subjects, to go into Executive session every day as soon as the Senate met, and remain there until the judgeship was disposed of. The Democrats must then choose between de-

feating the Appropriation Bills, and compelling an extra session, which the in-coming Administration would not like. In order to do that, however, the small Republican majority must hold together firmly, and be willing to take the risk of an extra session.

I called on President Harrison and urged upon him the appointment of Judge Jackson. I represented that it was desirable that there should be some Democrats upon the Bench, and that they should be men who had the confidence of their own part of the country and of the country at large; that Judge Jackson was a man of admirable judicial quality; that he had the public confidence in a high degree, and that it would be impossible for the Democratic Party to object to his selection, while it would strengthen the Bench. So I thought that even if we could put one of our men there without difficulty, it would be wise to appoint Jackson.

President Harrison was very unwilling, indeed, to take this view. He answered me at first in his rough impulsive way, and seemed very unwilling even to take the matter into consideration. But after a considerable discussion he asked me to ascertain whether the Republicans would be willing, if he sent in a Republican name, to adopt the course above suggested, and transact no other business until the result was secured, even at the risk of defeating the Appropriation Bills and causing an extra session. I went back to the Senate and consulted a good many Senators. Nearly all of them said they would not agree to such a struggle; that they thought it very undesirable indeed; that the effect would be bad. So it was clear that nothing could be accomplished in that way. I went back to the White House and reported. I got the authority of the gentlemen I had consulted to tell the President what they said. The result was the appointment of Judge Jackson, to the great satisfaction of the country. He was a very industrious and faithful Judge. But his useful life came to an end soon afterward, I suppose largely as the result of overwork in his important and laborious office.

The Attorney-General said of Mr. Justice Jackson: "He was not so much a Senator who had been appointed Judge, as a Judge who had served for a time as Senator."

I served with Senator Jackson on the Committee on Claims, and on the Committee on the Judiciary. We did not meet often in social life. He rarely came to my room. I do not remember that I ever visited him in his home. But we formed a very cordial and intimate friendship. I have hardly known a nature better fitted, morally or intellectually, for great public trusts, either judicial or political, than his. In the beginning, I think the framers of the Constitution intended the Senate to be a sort of political Supreme Court, in which, as a court of final resort, the great conflicts which had stirred the people, and stirred the Representatives of the people in the lower House, should be decided without heat and without party feeling. It was, I have been told, considered a breach of propriety to allude to party divisions in the early debates in the Senate, as it would be now deemed a breach of propriety to allude to such divisions in the Supreme Court of the United States.

Howell E. Jackson had this ancient Senatorial temperament. He never seemed to me to be thinking of either party or section or popular opinion, or of the opinion of other men; but only of public duty.

He never flinched from uttering and maintaining his opinions. He never caressed or cajoled his political antagonists. It is a great tribute to his personal quality that he owed his election as Senator to his political opponents who, when his own party was divided, joined a majority of his party to elect him. He also, as has been said, owed his appointment as Associate Justice of the Supreme Court to the impression which his probity and ability had made on his political opponents. When sick with a fatal illness he left a sick bed to take his place upon the Bench at the call of duty when the Income Tax case was to be decided. There is no doubt that the effort hastened his death. I do not agree with the conclusion to which he came on that great occasion. But the fact that he came to that conclusion is enough to make me feel sure that there were strong reasons

for it, which might well convince the clearest understanding, and be reconciled with the most conscientious desire to do right.

No list of the remarkable Senators of my time would be complete which did not contain the name of Senator Vest of Missouri. He was not a very frequent speaker, and never spoke at great length. But his oratoric powers are of a very high order. On some few occasions he has made speeches, always speaking without notes, and I suppose without previous preparation so far as expression and style go, which have very deeply moved the Senate, though made up of men who have been accustomed to oratory and not easily stirred to emotion. Mr. Vest is a brave, sincere, spirited and straightforward man. He has a good many of the prejudices of the old Southern Secessionist. I think those prejudices would long ago have melted away in the sunshine of our day of returning good feeling and affection, but for the fact that his chivalrous nature will not permit him to abandon a cause or an opinion to which he has once adhered, while it is unpopular. These things, however, are never uttered offensively. He is like some old cavalier who supported the Stuarts, who lived down into the days of the House of Hanover, but still toasted the King over the water.

Among the most interesting characters with whom it has been my fortune to serve is Senator John W. Daniel of Virginia. Our ways of life, and in many particulars our ways of thinking, are far apart. But I have been led to form a great respect for his intellectual qualities, and for his sincere and far-sighted patriotism.

Mr. Daniel came into the Senate in 1887. He had been known as a very eminent lawyer at the Virginia Bar, author of two excellent law books. He had served a single term in the National House of Representatives. He had won a National reputation there by a very beautiful and brilliant speech at the completion of the Washington Monument. There were two notable orations at the time, one by Mr. Daniel and one by Robert C. Winthrop. These gentlemen were selected for the purpose as best representing two sec-

tions of the country. Mr. Winthrop was, beyond all question, the fittest man in the North for such a task. I have a special admiration for the spirit and eloquence with which he performed such duties. To my mind no higher praise could be given Mr. Daniel's address than that it is worthy of that company.

I had occasion to look at Mr. Winthrop's address some little time ago, and, opening the volume containing it in the middle, I read a page or two with approval and delight thinking it was Mr. Winthrop's. But I found, on looking back to the beginning that it was Senator Daniel's.

Mr. Daniel speaks too rarely in the Senate. He is always listened to with great attention. He speaks only on important questions, to which he always makes an important contribution. He has the old-fashioned Virginia method of speech, now nearly passed away,—grave, deliberate, with stately periods and sententious phrases, such, I suppose, as were used in the Convention that adopted the Constitution, or in that which framed or revised the Constitution of Virginia.

Mr. Daniel was a Confederate soldier. He is a Virginian to his heart's core. He looks with great alarm on the possibility that the ancient culture and nobility of the South, and the lofty character of the Virginian as he existed in the time of Washington and Marshall and Patrick Henry may be degraded by raising what he thinks an inferior race to social or even political quality.

But he retains no bitterness or hate or desire for revenge by reason of the conflict of the Civil War. He delivered an address before the President of the United States, the Supreme Court, the representatives of foreign Governments, the two Houses of Congress and the Governors of twenty-one States and Territories, on the 12th of December, 1900, on the occasion of the celebration of the Centennial Anniversary of establishing the seat of Government at Washington. That remarkable address was full of wise counsel to his countrymen. Coming from a representative of Virginia, who had borne arms and been badly wounded in the Civil War, it had a double value and significance. Mr.

Daniel declared the cheering and hopeful truth that great races are made of a mixture of races, and that the best and bravest blood of the world's great races is mixed in the American. He appealed eloquently to the circumstances which should stir the heart of the whole people to a new and loftier love of country. He pointed out that the differences in forty-five great Commonwealths are not greater than ought to be expected, and indeed not greater than is healthy. He pointed out the National strength, the power of our great volunteer soldiery, and congratulated the country that the Republic stands at the dawn of a new century, with every man under its flag a freeman and ready to defend it. He called upon his countrymen to stand by the Monroe Doctrine, to be ready to defend it, if need be, in arms. He then specially appealed to the people to foster the inventive genius of the country, and repeated Mr. Jefferson's lofty prophecy that in some future day—

"The farthest star in the heavens will bear the name of Washington, and the city he founded be the Capital of the universal Republic."

Isham G. Harris entered the Senate the same day I did. I counted him always among my friends, although we had some sharp passages. I cannot describe him better than by reprinting here what I said of him in the Senate after his death.

"Mr. President, the great career of Senator Harris is well known to his countrymen. He has been for more than a generation a striking and conspicuous figure in our public life. His colleague, his successor, the men of his own political faith, the people of the great State which he served and honored and loved so long, will, each in their own way, portray his character and record their esteem and affection.

"My tribute must be that of a political opponent. So far as I have been able to exert any influence upon the history of my country during the long conflict now happily past, it has been in opposition to him, to the party to which he belonged, to the opinions which he held, I am sure, quite as zealously and conscientiously as I hold my own.

"We entered the Senate on the same day. He was a Southerner, a Democrat and a Confederate. I was born and bred in New England, a Republican, and an Abolitionist. We rarely spoke in the same debate except on different sides. Yet I have no memory of him that is not tender and affectionate, and there is nothing that I can honestly say of him except words of respect and of honor.

"He was a typical Southerner. He had the virtues and the foibles that belonged to that character in the generation the last of whom are now passing from the stage of public action. He was a man of very simple and very high qualities. He was a man of absolute frankness in public behavior and in private dealing. The thought that was in his heart corresponded absolutely with the utterance of his lips. He had nothing to conceal. I was about to say he was a man without the gift of diplomacy; but he was a man with the gift of the highest diplomacy—directness, simplicity, frankness, courage—qualities which make always their way to their mark and to their goal over all circumlocutions and ambiguities.

"He was a man of brief, clear and compact speech. He would sum up in a few vigorous and ringing sentences the argument to which other men would give hours or days. He had an instinct for the hinge or turning point of a debate.

"He was a man of absolute integrity and steadfastness. What he said, that he would do. Where you left him, there, so long as he lived, you would find him when you came back. He was a man of unflinching courage. He was not afraid of any antagonist, whether in the hall of debate or on the field of battle.

"He was an acknowledged master of parliamentary law, a system upon which not only the convenient procedure of legislative bodies largely depends, but which has close relations to Constitutional Liberty itself. How often a few simple and clear sentences of his have dispersed the clouds and brought order out of confusion in this Chamber.

"His great legislative experience made him invaluable as a servant of his own State, of the country and as a counsellor to his younger associates.

"He was a pleasant man in private intercourse. He had great sense of humor, a gift of portraiture, a good memory. So he brought out of the treasure-house of his varied experience abundant matter for the delight of young and old. There is no man left in the Senate who was better company in hours of recreation.

"His influence will be felt here for a long time. His striking figure will still seem to be hovering about the Senate Chamber, still sitting, still deliberating, still debating.

"Mr. President, it is delightful to think how, during the lives of the men who took part in the great conflict which preceded and followed the Civil War and the greater conflict of the war itself, the old bitterness and estrangements are all gone. Throughout the whole land the word 'countryman' has at last become a title of endearment. The memory of the leaders of that great conflict is preserved as tenderly by the men who fought with them as by the men who followed them. Massachusetts joins with Tennessee in laying a wreath on the tomb of her great soldier, her great Governor, her great Senator. He was faithful to truth as he saw it; to duty as he understood it; to Constitutional Liberty as he conceived it.

"If, as some of us think, he erred, his error was that of a brave man ready to give life and health and hope to the unequal struggle.

> To his loved cause he offered, free from stain,
> Courage and faith; vain faith and courage vain.

"And, Mr. President, when he returned to his allegiance, he offered to the service of his reunited country the same zeal and devotion he had given to the Confederacy. There was no reserved or half-hearted loyalty. We could have counted on his care for the honor and glory of the country, on his wise and brave counsel, in this hour of anxiety, with an unquestioning confidence. So Massachusetts to-day presses the hand of Tennessee and mourns with her for her great citizen who has departed."

James B. Eustis of Louisiana was of old Massachusetts stock. His father was graduated at Harvard, and went to

New Orleans, where he acquired great distinction at the bar, and as Chief Justice of that State. Senator Eustis's great-uncle was General Eustis, an eminent soldier of the Revolutionary War, and afterward Governor of Massachusetts.

Senator Eustis seemed somewhat indolent, and to take very little interest indeed in what was going on, except on some few occasions when he bore himself in debate with remarkable ability. I think his grave, scholarly style, and his powerful reasoning, the propriety, dignity and moderation with which he dealt with important subjects, made him nearly the finest example of Senatorial behavior I have ever known. He once made a speech in Executive session, on a topic which was suggested suddenly and he could not have anticipated, on the character and history of French diplomacy, which was marvellous alike for his profound and accurate knowledge of the subject and the beauty and grace of his discourse.

I was not intimate with him in Washington. But I met him in Paris, while he was Ambassador there under President Cleveland's Administration. I have delightful memories of his hospitality, especially of one breakfast, where there was but one other guest beside myself, in a beautiful room overlooking the Seine and the Place de la Concorde.

If I were to select the one man of all others with whom I have served in the Senate, who seems to me the most perfect example of the quality and character of the American Senator, I think it would be Edward C. Walthall of Mississippi. I knew him personally very little. I do not now remember that I ever saw him, except in the Capitol, or in the Capitol grounds. I had, I dare say, some pleasant talks with him in the Senate Chamber, or the cloak room. But I remember little of them now. He rarely took part in debate. He was a very modest man. He left to his associates the duty of advocating his and their opinions, unless he was absolutely compelled by some special reason to do it himself. When he did speak the Senate listened to a man of great ability, eloquence and dignity. I once heard him en-

counter William M. Evarts in debate. Evarts made a prepared speech upon a measure which he had in charge. Walthall's reply must have been unpremeditated and wholly unexpected to him. I think Evarts was in the right and Walthall in the wrong. But the Mississippian certainly got the better of the encounter.

It is a remarkable truth, which impresses itself upon me more and more the longer I live, that men who are perfectly sincere and patriotic may differ from each other on what seem the clearest principles of morals and duty, and yet both sides be conscientious and patriotic. There is hardly a political question among the great questions that have excited the American people for the last half century on which we did not differ from each other. The difference was not only as to the interpretation of the Constitution, and the welfare of the people, but seemed to go down to the very roots of the moral law.

Yet what I have just said about him is without exaggeration. I have the right to believe that he entertained the kindliest and most cordial feeling of regard for me. Not long before he died, President McKinley sent for me to come to the White House. He wished to talk with me about what he should do in dealing with Cuba. He was then holding back the popular feeling, and resisting a demand which manifested itself among Republicans in both Houses of Congress for immediate and vigorous action which would without doubt have brought on the war with Spain without delay. He hoped then that the war might be avoided. I had to go to the Capitol before complying with the President's request, as it was shortly before the time for the session. As I was leaving the Capitol to go to the White House, I met Senator Walthall. He said, "You seem to be going the wrong way this morning," or something like that. I said, "Yes, I am going to see the President." Senator Walthall said: "I wish you would be good enough to say to him from me that he may depend upon the support of the Democrats in the Senate, with only one or two exceptions," whom he named, "to support him in his efforts to avoid war, and to accomplish a peaceful solution of the difficulties in regard

to Cuba." I undertook to give the message. And just as we were parting, Senator Walthall turned and said to me that he wished to tell me how highly he regarded me, and how sensible he was, notwithstanding my very strong Northern feeling, of my appreciation of the character of the Southern people, and my desire to do them full justice. He added that he regarded it one of the most pleasant things that had happened to him in life that he had had the pleasure of serving with me. I do not now remember that I ever spoke to him again. He did not come to the Senate Chamber very often afterward. I have thought since that this unwonted expression of deep feeling from a gentleman not wont to wear his heart upon his sleeve toward his political opponent, and a man with whom he so often disagreed, was due to a premonition, of which he was perhaps unconscious, that the end of his life was near, and to the kindly and gentle emotions which in a brave and affectionate heart like his the approach of death is apt to bring.

I could hardly venture to repeat this story, to which there is no other witness than my own, but for some letters in my possession from Mr. Walthall's daughter and friend in which the writers quote even stronger expressions of his regard.

I heard a great deal of him from Senator Lamar, who loved him as a brother, and almost worshipped him as a leader. Senator Lamar told me that he thought Walthall the ablest military genius of the Confederacy, with the exception of Lee, and, I think, of Stonewall Jackson. Indeed, I think he expressed doubt whether either exception could be made. He said that if anything had happened to Lee, Walthall would have succeeded to the chief command of the Confederate forces. General Walthall seemed to me the perfect type of the gentleman in character and speech. He was modest, courteous and eager to be of service to his friends or his country. The description of the young Knight given us by Chaucer, the morning star of English poetry, still abides as the best definition of the gentleman.

Curteis he was, lowly and serviceable.

His colleague, Mr. Williams of Mississippi, after Walthall's death, described the Southern gentleman of our time in a sentence which deserves to stand by the side of Chaucer's:

"The ideal gentleman was always honest; spoke the truth; faced his enemy; fought him, if necessary; never quarrelled with him nor talked about him; rode well; shot well; used chaste and correct English; insulted no man—bore no insult from any; was studiously kind to his inferiors, especially to his slaves; cordial and hospitable to his equals; courteous to his superiors, if he acknowledged any; he scorned a demagogue, but loved his people."

I do not undertake to draw his portraiture. I suppose that whoever does that must describe a great soldier and a great lawyer, as well as a great Senator. I only state what I saw of him in the Senate Chamber. It was said of him by an eminent Republican Senator, his associate on the Committee on Military Affairs, that in dealing with questions which affected the right of Union soldiers, or growing out of service to the Union during the Civil War, no stranger could have discovered on which side of that great war he had ranged himself.

CHAPTER XVII

CUSHMAN KELLOGG DAVIS

I REPRINT here a paper read before the American Antiquarian Society shortly after Mr. Davis's death.

Cushman Kellogg Davis was born at Henderson, Jefferson County, New York, June 16, 1838, and died at St. Paul, Minnesota, November 27, 1900. On his mother's side he was descended from Robert Cushman and Mary Allerton, the last survivor of the company which came over in the Mayflower. He was graduated at the University of Michigan in 1857, and admitted to the Bar shortly before the breaking out of the Civil War. He enlisted at the beginning of the War and served as First Lieutenant of Company B, Eighth Wisconsin Regiment, until 1864, when he was compelled by physical infirmity to resign his commission. He was an excellent soldier. He sustained an injury to one of his eyes, which caused him much pain through life, until a few years before his death he lost the sight of that eye altogether.

After his return from the war, he began the practice of the law anew, in which he gained great distinction. For many years, and until his death, he was the acknowledged leader of the Bar of his State. He was a member of the State Legislature of Minnesota in 1867, United States District Attorney from 1868 till 1873, and Governor of the State in 1874 and 1875. He was one of the Regents of the State University of Minnesota from 1892 to 1898. In 1887 he was elected United States Senator, and reelected in 1893 and 1899. He held the office of Senator until his death. He was Chairman of the Committee on Foreign Relations from March, 1897, till his death. He was one of the Commissioners who negotiated the Treaty of Paris with Spain.

He was a great lover of books, of which he had a costly collection. He knew Shakespeare very thoroughly, and was the author of a book called "The Law of Shakespeare."

He was also a zealous and thorough student of the career of Napoleon, whose civic and military career he greatly admired. His mind was a marvellous storehouse of literary gems which were unknown to most scholars, but rewarded his diligent search and loving study of his books.

Many good stories are told by his companions of the Bar and in public life of his apt quotations. It is said that he once defended a Judge in an impeachment case. The point involved was the power of the court to punish for contempt, and Davis quoted in support of his position the splendid and well-known lines of Henry the Fourth, in the famous scene where the Chief Justice punishes the Prince of Wales for contempt of the judicial office and authority. For this anecdote, the writer is indebted to Senator Lodge. In the Senate, during the Hawaiian debate, he quoted this passage from Juvenal:

> Sed quo cecidit sub crimine; quisnam
> Delator? quibus judiciis; quo teste probavit?
> Nil horum; verbosa et grandis epistola venit
> A Capreis. Bene habet; nul plus interrogo.

He then proceeded:

"My friend from Massachusetts (Mr. Hoar) requests me to translate that. He does not need it, of course. But another Senator (Mr. Washburn) suggests that some of the rest of us do. I will not attempt to give a literal translation, but I will give an accurate paraphrase, which will show its application 'Into what crime has he fallen? By what informer has he been accused? What judge has passed upon him? What witness has testified against him? Not one or any of these. A verbose and turgid message has come over from Capri. That settles it. I will interrogate no further.'"

The most ardent admirers of the then President, Mr. Cleveland, could not help joining in the laugh.

Mr. Davis took great delight in his descent from the early settlers of Plymouth, and valued exceedingly the good will of the people of Massachusetts. The members of the Society who were fortunate enough to meet him will not forget their delight in his pleasant companionship, when he visited Massachusetts a few years ago to attend our meeting and contribute a paper to our Proceedings. He had hoped to repeat the visit.

I prefer, instead of undertaking to complete this imperfect sketch by a new portraiture of my honored friend, to add what I said in the Senate, when the loss of Mr. Davis was still recent:—

"Mr. PRESIDENT: There is no Senator who would not be glad to lay a wreath of honor and affection on the monument of Cushman K. Davis. That, however, is more especially the right of his colleague and his successor and the members of the great Committee where he won so much of his fame. I ought to say but a few words.

"The Senate, as its name implies, has been from the beginning, with few exceptions, an assembly of old men. In the course of nature many of its members die in office. That has been true of thirty-eight Senators since I came to the Capitol. Others, a yet larger number, die soon after they leave office. Of the men with whom I have served in this Chamber fifty-eight more are now dead, making in all ninety-six, enough and to spare to organize another Senate elsewhere. To that number has been added every Vice-President but two. Upon those who have died in office eulogies have been pronounced in this Chamber and in the House. The speakers have obeyed the rule demanded by the decencies of funeral occasions—nil de mortuis nisi bonum—if not the command born of a tenderer pity for human frailty—jam parce sepulto. But in general, with scarcely an exception, the portraitures have been true and faithful. They prove that the people of the American States, speaking through their legislative assemblies, are not likely to select men to represent them in this august assembly who are lacking in high qualities either of intellect or of character.

However that may be, it is surely true of Mr. Davis that whatever has been or will be said of him to-day, or was said of him when the news of his death first shocked the country, is just what would have been said when he was alive by any man who knew him. I have served with him here nearly fourteen years. I have agreed with him and I have differed from him in regard to matters of great pith and moment which deeply stirred the feelings of the people, as they did mine, and doubtless did his own. I never heard any man speak of him but with respect and kindness.

"Of course, Mr. President, in this great century which is just over, when our Republic—this infant Hercules—has been growing from its cradle to its still youthful manhood, the greatest place for a live man has been that of a soldier in time of war and that of a statesman in time of peace. Cushman K. Davis was both. He did a man's full duty in both. No man values more than I do the function of the man of letters. No man reveres more than I do the man of genius who in a loving and reverent way writes the history of a great people, or the poet from whose lyre comes the inspiration which induces heroic action in war and peace. But I do not admit that the title of the historian or that of the poet to the gratitude and affection of mankind is greater than that of the soldier who saves nations, or that of the statesman who creates or preserves them, or who makes them great. I have no patience when I read that famous speech of Gladstone, he and Tennyson being together on a journey, when he modestly puts Mr. Tennyson's title to the gratitude of mankind far above his own. Gladstone, then Prime Minister, declared that Tennyson would be remembered long after he was forgotten. That may be true. But whether a man be remembered or whether he be forgotten; whether his work be appreciated or no; whether his work be known or unknown at the time it is accomplished, is not the test of its greatness or its value to mankind. The man who keeps this moral being, or helps to keep this moral being we call a State in the paths of justice and righteousness and happiness, the direct effect of whose action is felt in the comfort and happiness and moral life of millions upon millions

of human lives, who opens and constructs great highways of commerce, who makes schools and universities not only possible but plenty, who brings to pass great policies that allure men from misery, and poverty, and oppression, and serfdom in one world, to free, contended, happy, prosperous homes in another, is a great benefactor to mankind, whether his work be accomplished with sounding of trumpets, or stamping of feet, or clapping of hands, or the roar and tumult of popular applause, or whether it be done in the silence of some committee room, and no man know it but by its results.

"I am not ready to admit that even Shakespeare worked on a higher plane, or was a greater power on earth, than King Alfred or George Washington, even if it be that he will survive them both in the memory of man. The name of every man but one who fought with Leonidas at Thermopylæ is forgotten. But is Æschylus greater than Leonidas, or Miltiades, or Themistocles? The literature of Athens preserves to immortality the fame of its great authors. But it was Solon, and Pericles, and Miltiades that created and saved and made great the city, without which the poets could not have existed. Mr. Tennyson himself came nearer the truth than his friend, Mr. Gladstone, when he said:

> He
> That, through the channels of the state,
> Conveys the people's wish, is great;
> His name is pure; his fame is free.

"There have been soldiers whose courage saved the day in great decisive battles when the fate of nations hung in the scale, yet whose most enduring monument was the column of smoke which rose when their death shot was fired. There have been statesmen whose silent influence has decided the issue when the country was at the parting of the ways, of whose service history takes no heed. The great Ohio Territory, now six imperial States, was twice saved to freedom by the almost unnoticed action of a single man. With all respect for the man of letters, we are not yet quite ready to admit that the trumpeter is better than the soldier, or the painter greater than the lion.

"There is no need of many words to sum up the life and character of Cushman Davis. His life was in the daylight. Minnesota knew him. His country knew him and loved him. He was a good soldier in his youth, and a great Senator in his maturer manhood. What can be said more, or what can be said better, to sum up the life of an American citizen? He offered his life for his country when life was all before him. His State and his country rewarded him with their highest honor. The great orator and philosopher of Rome declared in his youth, and repeated in his age, that death could not come prematurely to a man who had been Consul. This man surely might be accounted ready to die. He had discharged honorably life's highest duty, and his cup of honor and of glory was full.

"We are thinking to-day of something more than a public sorrow. We are mourning the loss of a close and delightful companionship, a companionship which lightened public care and gave infinite pleasure to private intercourse. If he had never held office, if his name had never been heard even beyond the boundaries of a single municipality, he would have been almost anywhere a favorite and foremost citizen. He was, in the first place, always a gentleman; and a true gentleman always gives tone to any company in which he is found, whether it be among the rulers of States or the humblest gathering of friendly neighbors. Lord Erskine said on a great occasion:

"'It is impossible to define in terms the proper feelings of a gentleman; but their existence has supported this country for many ages, and she might perish if they were lost.'

"Certainly our friend had this quality. He was everywhere a gentleman. He met every occasion in life with a simple and quiet courtesy. There was not much of deference in it. There was no yielding or supplication or timidity in it. I do not think he ever asked favors, though no man was more willing to grant them. But there is something more than this in the temper of which I am speaking. The man who possesses it gives unconsciously to himself or to his associates tone to every circle, as I just said, in which he is found. So, wherever he was, his manner of behavior

prevailed, whatever might have happened to the same men if they had been left alone.

"Senator Davis was a man who kept well his own counsel. He was a man to whom it was safe for other men to trust their counsel. His conversation, to which it was always a delight to listen, had no gossip in it. Still less had it ever anything of ill nature or sarcasm. He liked to share with a friend the pleasure he took in finding some flower or gem of literature which, for long ages till he found it in some out-of-the-way nook, had—

Blushed unseen,
And wasted its sweetness on the desert air.

"He had what Jeremy Taylor calls 'the great endearment of prudent and temperate speech.'

"His conversation was sparkling and witty and full of variety, but no spark from him was ever a cinder in the eye of his friend.

"He had a learning rare among public men, and, for its variety, rare, I think, among scholars. He would bring out bits of history, full of interest and instruction, from the most obscure sources, in common conversation. He was an excellent Latin scholar. He had read and mastered Tacitus, and a man who has mastered Tacitus has had the best gymnastic training of the intellect, both in vigor and style, which the resources of all literature can supply.

"One secret of his great popularity with his companions here—a popularity I think unexcelled, indeed, I incline to think unequalled by that of any other man with whom I have served—is that to which the late Justin Morrill owed so much. He never debated. He rarely answered other men's arguments, never with warmth or heat. But he was exceedingly tenacious of his own opinion. He was, in the things he stood for, as unyielding as flint and true as steel. But his flint or steel never struck out a spark by collision with any other. He spoke very rarely in debate in general; only when his official place on his committee, or something which concerned his own constituents especially, made speaking absolutely imperative. Then he gave his opinion

as a judge gives it, or as a delegate to some great international council might be supposed to give it; responsible for it himself, but undertaking no responsibility for other men's opinion or conduct; never assuming that it was his duty or within his power to convert, or change, or instruct them, still less to chastise them. Whether that way be the best way for usefulness in a deliberative body, especially in a legislative body of a great popular government, I will not undertake now to say. Certainly it is not the common way here or elsewhere. It is very rare indeed, that any man possessing the great literary and oratorical power of Mr. Davis, especially a man to whom nobody ever thought of imputing timidity or undue desire to enjoy public favor, or want of absolute confidence in his own opinions, will be found to refrain from employing these qualities to persuade or convince other men.

"He had a rare and exquisite gift which, if he had been a man of letters and not a man engaged in a strenuous public life, would have brought him great fame. Once in a while he said something in private, and more rarely, though once or twice, in a public speech, which reminded you of the delicate touch of Hawthorne. His likening President Cleveland and Mr. Blount, looking upon the late royalty of the Sandwich Islands with so much seriousness, to Don Quixote and Sancho Panza taking in great earnest the spectacle of a theatrical representation at a country fair and eager to rescue the distressed damsel, was one of the most exquisite felicities of the literature of the Senate.

"He had great pride in his ancestry, and was a great lover of the history of New England and Plymouth, from which they came, though he never gave himself airs on account of it. He was a descendant of Robert Cushman, the preacher of the Pilgrims, whose service was in a thousand ways of such value to the little colony at Plymouth. Yet it had never happened to him to visit the scenes with which the feet of his ancestors had been so familiar, until a few years ago he did me the honor to be my guest in Massachusetts, and spent a few days in visiting her historic places. He gazed upon Boston and Plymouth and Concord rever-

ently as ever Moslem gazed upon Mecca or the feet of palmer stood by the holy sepulchre. That week to him was crowded with a delight with which few other hours in his life could compare. I had hoped that it might be my fortune and his that he might visit Massachusetts again, that her people might gather in her cities to do him honor, and might learn to know him better, and might listen to the sincere eloquence of his voice. But it was ordered otherwise.

"There are other things his country had hoped for him. She had hoped a longer and higher service, perhaps the highest service of all. But the fatal and inexorable shaft has stricken him down in the full vigor of a yet strenuous manhood. The great transactions in which he had borne so large a part still remain incomplete and their event is still uncertain.

"There is a painting which a great Italian master left unfinished. The work was taken up and completed by a disciple. The finished picture bears this inscription: 'What Titian left unfinished, Palma reverently completed, and dedicated to God.' So may our beloved Republic find always, when one servant leaves his work unfinished, another who will take it up and dedicate it to the country and to God."

CHAPTER XVIII

GEORGE BANCROFT

One of the most delightful friendships of my life was with George Bancroft, the famous historian. I never knew him until I went to Washington in 1877. But we established at once, as matter of course, the relation of an intimate friendship. He was born in Worcester, to which he was much attached, though he had spent little of his life there after he had left college. Mrs. Bancroft had known my oldest brother and sister intimately, when she lived in Boston. I had learned from Mr. Emerson, who rarely gave his praise lightly, as well as from my own study, to value Mr. Bancroft very highly as a historian, which he soon found out.

I almost always found him waiting for me on the doorstep of my dwelling when I came from church the first Sunday after I reached Washington, at the beginning of a session. I have enjoyed many hours at his table, rendered delightful by the conversation of the eminent guests whom he gathered there, but by no conversation more delightful than his own.

Mr. Bancroft had two enthusiasms which made him a great historian—an enthusiasm for truth which spared no labor and left no stores of information unsearched, and an enthusiastic love of country. He believed that the great emotions and motives which move a free people are the noble, not the mean motives. He has written and interpreted the history of the United States in that faith. I believe his work will endure so long as the love of liberty shall endure. I gave my estimate of him at a meeting of the American Antiquarian Society, of which we were both chosen Vice-Presidents, in October, 1880, just after the completion of his eightieth year and of his "History of the United States," as follows:

"It is not usual to discuss the report of the committee to propose a list of officers. But one of the names reported gives special interest to the occasion. On the third of this month of October, our honored associate Mr. Bancroft completed his eightieth year. At the same time he completed his 'History of the United States' to the formation of the Federal Constitution.

"This Society, while it is national and continental in the scope of its investigations, strikes down its roots into the soil of this locality, where its founder dwelt, and where its collections are kept.

"For both these reasons we cherish our relations to Mr. Bancroft. He was born within a few rods of this spot. He is descended by the mother's side from an old Worcester County family who were conspicuous in the administration of its public affairs long before the Revolution. His father was one of the six persons who petitioned for the act of incorporation of this Society, and one of its first members. His brother by marriage, Governor Davis, was your predecessor in the President's chair.

"These reasons would be enough to induce us to value our relation. But he has filled a highly honorable and conspicuous place in public life. He is, I believe, the senior person living who has been a member of the Cabinet. He is the senior among living persons who have filled important diplomatic stations. He has represented the United States at Berlin and at St. James.

"His history is, and doubtless will be, the great standard authority upon the important period which it covers. He is the only person living whose judgment would change the place in public estimation held by any of the great statesmen of the Revolutionary times. He has had the rare good fortune among men of letters, to have proposed to himself a great task, requiring a lifetime for its accomplishment, the successful achievement of which is enough to make any life illustrious, and to have lived to complete it with powers of body and mind undiminished. It is his fate to know, while alive, the estimate in which he will be held by posterity. In

his case, that knowledge can be only a source of pleasure and satisfaction.

"In this Mr. Bancroft resembles Gibbon. We all remember Gibbon's delightful account of the completion of his great work.

"In another thing, alone among great historians, Mr. Bancroft resembles Gibbon. As an artist he has accomplished that most difficult task of composing a history made up of many separate threads, which must keep on side by side, yet all be subordinate to one main and predominant stream. But his narrative never loses its constant and fascinating interest. No other historian, I believe, except Gibbon, has attempted this without becoming insufferably dull.

"Mr. Bancroft tells the story of thirteen States, separate, yet blending into one National life. It is one of the most wonderful things in our history, that the separate States having so much in common, have preserved so completely, even to the present time, their original and individual characteristics. Rhode Island, held in the hollow of the hand of Massachusetts; Connecticut, so placed that one would think it would become a province of New York; Delaware, whose chief city is but twenty-five miles from Philadelphia, yet preserve their distinctive characteristics as if they were states of the continent of Europe, whose people speak a different language. This shows how perfectly state rights and state freedom are preserved in spite of our National union, how little the power at the centre interferes with the important things that affect the character of a people. Why is it that little Delaware remains Delaware in spite of Pennsylvania, and little Rhode Island remains Rhode Island notwithstanding her neighbor Massachusetts?

What makes the meadow flower its bloom unfold?
  Because the lovely little flower is free
Down to its roots, and in that freedom bold.
  And so the grandeur of the forest tree
Comes, not from casting in a formal mould,
  But from its own divine vitality.

"But Mr. Bancroft is more fortunate than Gibbon. Gibbon wrote of decline, of decay, of dissolution, and death; of the days, to use his own words, 'when giants were becoming pigmies.' Bancroft tells the story of birth, and growth, and youth, and life. His name is to be inseparably associated with a great and interesting period in the world's history; with what in the proud imagination of his countrymen must ever be the greatest and most interesting of all periods, when pigmy villages were becoming giant States. I am sure that it is a delight to this assembly of distinguished scholars, assembled near his birthplace, to send him, at the completion of his great work, and of his eightieth year, their cordial salutation."

I went to see Mr. Bancroft on the evening of the last Sunday in December, 1890. He was sitting in his library up stairs. He received me in his usual emphatic manner, taking both my hands and saying, "My dear friend, how glad I am to see you!" He was alone. He evidently knew me when I went in, and inquired about Worcester, as he commonly did, and expressed his amazement at its remarkable growth.

I stayed with him about twenty or thirty minutes. The topics of our conversation were, I believe, suggested by me, and the whole conversation was one which gave evidence of full understanding on his part of what we were talking about. It was not merely an old man's memory of the past, but the fresh and vigorous thought on new topics which were suggested to him in the course of the conversation. I think he exhibited a quickness and vigor of thought and intelligence and spoke with a beauty of diction that no man I know could have surpassed.

I asked him if he could account for the interest in historical study among the older Harvard graduates, and mentioned the fact that the principal historians of this country, including himself, Prescott, Sparks, Motley, Palfrey and Parkman, were all Harvard men and were eminent at a time when there were scarcely any other eminent historical scholars in America. He did not directly answer this ques-

tion, but said that his own inclination toward history, he thought, was due very much to the influence of his father. He said his father would have been a very eminent historian, if he had had material at his command, and that he had a remarkably judicious mind.

He spoke of some clergymen, especially the Unitarian clergymen, so many of whom belonged to Harvard at his time. He said he had little sympathy for the Unitarianism of his day, "for its theology, no; for its spirituality, yes."

He asked me about the Election Bill pending in the Senate. I spoke of the great storm of abuse I had had to encounter for advocating it, but said I thought on the whole the feeling between the different sections of the country and different political parties was better than it ever had been before in this country, and much better than that which now existed between different political parties in foreign countries. He cordially agreed to this, and made some observations which I do not now recall, but which were interesting and bright.

After we had talked together for some time, he said: "My memory is very poor: I cannot remember your first name." I said: "It is the same as yours, Mr. Bancroft—George." He paused a moment with an amused and puzzled look, and said: "What is your last name?" He had evidently known me very well during most of the preceding part of the interview.

I told his son about this conversation the day after Mr. Bancroft's death. He said that the presence of a visitor acted in this way as a stimulant, but that he had not lately shown much intelligence in the family, seeming lost and feeble.

CHAPTER XIX

VISITS TO ENGLAND

[1860, 1868, 1871]

I was born within a mile of the spot where the War of the Revolution began. My ancestors and other kindred on both sides took an active and prominent part in the struggle with England. I am descended from the early Puritans of Massachusetts in every line of descent. So it will readily be believed that all my feeling and sympathy have been on the side of my country in the great controversy with England, which began with the exile of the Pilgrims in 1620 and continued, with little interruption, until our last great quarrel with her, which ended with the arbitration at Geneva. Yet I am a passionate lover of England. Before I ever went abroad, I longed to visit the places famous in her history, as a child longs to go home to his birthplace.

I have visited Europe six times. On each occasion I devoted the largest part of my time to Great Britain. The desire to see England again has increased with every visit. Certainly there is nothing like England, and there never has been anything like England in the world. Her wonderful history, her wonderful literature, the beauty of her architecture, the historic and poetic associations which cluster about every street and river and mountain and valley, her vigorous life, the sweetness and beauty of her women, the superb manhood of her men, her navy, her gracious hospitality, her courage and her lofty pride—although some single race of people may have excelled her in a single particular—make up a combination never equalled in the world. I am, of course, not to be understood to bring my own country into the comparison.

The first time I went abroad was in 1860. I had for a companion my friend from infancy, George M. Brooks, of

Concord. We travelled like a couple of Bohemians, never riding where we could walk; lunching or dining where he happened to find ourselves when we were hungry; taking second or third class carriages on the railroads, and getting into conversation with anybody who would talk to us. I doubt whether I shall ever have in this world, or in another, a sensation more delicious than that I had when the old steamer, "America," steamed up the Channel toward the mouth of the Mersey, with the green shores of Ireland on one side and England on the other. I am afraid if I were to relate the story of that journey, it would be only to please myself by reviving its recollections, and not for the delight of my readers, so many of whom have a similar memory of their own.

We heard John Bright and Lord John Russell and Lord Palmerston in a great debate in the House of Commons on the paper duties, and saw Lord Brougham walking backward and forward on the terrace by Brougham Castle, near Penrith. We saw Edinburgh and the Trosachs, and Abbotsford and Stirling. I had been a loving reader of Scott from my childhood, and was almost as much at home in Scotland as if I had been born in the Canongate or the Saltmarket. I had had a special fancy for reading and studying topographical books on London, and found myself, pretty soon, so much at home there that I think I could have made a very decent living as a guide.

We spent a month in Switzerland. I made the journey over the mountain passes on foot, keeping up with my companion, who had a horse or a mule. I could walk twenty-five or thirty miles a day without great fatigue.

Augustus Flagg of the famous book-selling firm of Little & Brown, with whom I had dealt a great deal, was on the ship when I went out. He went abroad to purchase books for his house. In those days the book-stalls in London were mines of rare treasures. They had not been much examined by collectors or dealers, and the men who kept them did not know the value of books that were almost priceless in the eyes of virtuosos. Mr. Flagg and I spent together a good many days in ransacking the old book-stalls

and shops, some of them in out-of-the-way places in the old city, even below the Tower. I could not afford to buy a great many books then. But I knew something about them, and the experience was like having in my hands the costliest rubies or diamonds.

The journey each way, which now takes six or seven days, then took fourteen. The Cunard steamer, whose successor, with its bilge keel and its vastly greater size, is as comfortable, even in very rough weather, as the first class city hotel, was as disagreeable in rough weather, to a man unaccustomed to the ocean, as a fishing-smack. But the passengers got well acquainted with one another. There was agreeable society on board, and the days passed pleasantly.

Among the passengers was Joseph Coolidge of Boston, father of Thomas Jefferson Coolidge, late Minister to France. Mr. Coolidge had been a great traveller in his day; had had some commercial occupations in the East, and was very pleasant company. His wife was a granddaughter of Mr. Jefferson. He told me that two of Mr. Jefferson's daughters—or granddaughters, I am not now absolutely sure which—had kept school and earned money, which they had applied to the payment of Mr. Jefferson's debts. The story was highly creditable to these Virginia ladies, who might well have thought that their illustrious ancestor's service might excuse his family from making sacrifices in discharge of such an obligation, if his countrymen at large did not feel its force.

I went over pretty much the same ground in 1868 with three ladies. I made both these journeys as an ordinary sightseer. I took few letters of introduction. I did not deliver those, except in one or two cases to American gentlemen living abroad.

One experience in this latter journey, however, it may be worth while to tell. I had a very pleasant friendship with Henry T. Parker, a Boston man and a graduate of Harvard, who had a comfortable property and had married an English lady and had settled in London. He found an occupation, congenial to his own taste, in buying books, as agent of some

of the great libraries in the United States, including the Harvard Library and the Boston City Library. He was an intimate friend of Mr. Cox, the accomplished Librarian of the Bodleian, to whom he gave us letters.

Mr. Cox treated us with special courtesy and showed us many treasures of the Library, especially some wonderful illuminated manuscripts. One of them, the Duc de Montpensier, who had been at Oxford shortly before and who was an authority in such matters, felt confident was illustrated by Raphael. Mr. Cox had discovered, just before I was there, in some crypt where it had lain unknown for two hundred years, a touching letter from Clarendon, who was Chancellor of the University, which I think will move the heart of every man who loves the college where he was educated. The letter was written by Lord Clarendon just after he had landed at Calais, a hopeless exile, on his last flight from the country to which he was never again to return. The great orator, statesman, historian, lawyer, judge,—counsellor, companion and ancestor of monarchs,—flying for his life, in his old age, into a foreign land, from the court of which, for a generation, he had been the ornament and head, soon as his feet touch a place of safety, thinks of his University. See the noble heart through the simple and stately rhetoric:

Good Mr. Vice-Chancellor:

Having found it necessary to transport myselfe out of England, and not knowing when it shall please God that I shall returne againe, it becomes me to take care that the University may not be without the service of a person better able to be of use to them than I am like to be, and I doe therefore hereby surrender the office of chancellor into the hands of said University, to the end that they may make choyce of some other person better qualified to assist and protect them, than I am. I am sure he can never be more affectionate to it. I desire you as the last suite I am likely to make to you, to believe that I doe not fly my country for guilt, and how passionately soever I am pursued, that I have not done anything to make the University ashamed of me, or to repent the good opinion they had once of me, and though

I must have no mention in your publique devotions, (which I have always exceedingly valued,) I hope I shall always be remembered in your private prayers, as

Good Mr. Vice-Chancellor,
Your affectionate servant,
CLARENDON.

CALAIS, this 7–17 Dec., 1667.

In 1871 I went abroad alone. I spent the whole time in England, except for a brief visit to Scotland. My purpose in going away was to get a vacation. I meant to do some studying in the British Museum, especially to make a thorough study of the conditions and economic principles affecting the strife between capital and labor, which then threatened both this country and England. I got a collection of the authorities and the references. But I did not find that I got a great deal of light from anything that had been written or said so far. I made a few very agreeable acquaintances. I had a letter to Thomas Hughes, and visited him at his house. I found George W. Smalley, who had been a pupil in my office, established in a delightful house near London. He seemed to be on terms of intimacy with the famous Englishmen who were the leaders of both political parties, and with many eminent men of letters. I spent a delightful evening with Mr. Hughes at a club which I think was called the European Club, or something like that, where the members smoked clay pipes and drank beer. There seemed to be no other provision for the refreshment of the body or soul. But the conversation was very pleasant. The members sat together about a table, and the conversation was quite general and very bright. The talk turned, during the evening, on Scotsmen. The Englishmen present seemed to have something left of the old prejudice about Scotland with which Dr. Johnson was possessed. They imputed to the modern Scotsmen the same thrifty habit and capacity for looking after himself that prevailed a hundred years before, when Dr. Johnson and John Wilkes, who quarrelled about everything else, became reconciled when they united in abuse of their Northern neighbors. Sir

Frederick Pollock cited a marginal note from the report of some old criminal case, to the following effect: "Possession of property in Scotland evidence of stealing in England."

I was guilty of one piece of stupid folly. Mr. Hughes kindly proposed to take me to see Carlyle. This was not very long after our war, when our people were full of indignation at Carlyle's bitter and contemptuous speech about us, especially his "American Iliad in a Nutshell." I was a little doubtful about what sort of a reception I should get, and declined the invitation. I have bitterly regretted this ever since. My brother visited Carlyle about 1846, bearing with him a letter from Emerson. Carlyle was very civil to him, and liked him very much, as appears by a letter from him to Mr. Emerson.

During this visit I heard a great debate between Gladstone and Disraeli. A brief account of it will be found in the chapter on "Some Famous Orators I have Heard."

A friend in Worcester gave me a letter to Mr. Wornum, the Director of the National Gallery, with whom he had been a fellow-pupil at Kensington. Mr. Wornum received me with great cordiality. He asked me to come to the Gallery the next day, when it would be closed to the public. He said he would be glad to show it to me then, when we would be free from interruption. He was the author of what I understand to be an excellent history of painting, and was regarded as the most competent judge in Europe of the value and merit of paintings. I suppose Parliament would at any time, on his sole recommendation, have given ten or twenty or perhaps fifty thousand guineas for a masterpiece. I shall never forget the delight of that day. He told me the history of the great paintings in the National Gallery, some of which had belonged to monarchs, popes, noblemen or famous merchants of almost all the countries in Europe. He said that while there were many larger galleries, the National Gallery was the best in the world as affording the best and most characteristic examples of every school of painting. I cannot remember much that was said in that long day, interrupted only by a pleasant lunch together. But it was a day full of romance. It was as if I

had had in my hand the crown jewels of every potentate in the world, and somebody had told me the history of each gem. For this picture Francis the First, or Charles V., or Henry VIII. had been bidders. This had belonged to Lorenzo de Medici, or Pope Leo X. This had come from the famous collection of Charles I., scattered through Europe on his death; and this had belonged to some nobleman whose name was greater than that of monarchs.

Mr. Wornum spoke of his treasures with an enthusiasm which no worshipper at the throne of any Saint or Divinity could surpass. That day was among the few chiefest delights of my life.

CHAPTER XX

VISITS TO ENGLAND

1892

My next visit to England was in the spring of 1892. The winter before, I had a severe attack of iritis, which left my eyes in a very demoralized condition. I did not find much relief in this country, not, I suppose, because of want of skill in our ophthalmic surgeons, but because of the impossibility of getting any rest anywhere where I could be reached by telephone or telegraph. To a person who can bear an ordinary voyage there is no retreat like an ocean steamer. Telephone, telegraph, daily paper; call or visit of friend, client, or constituent; daily mail—sometimes itself, to a busy public man, enough for a hard day's work—all these are forgotten. You spend your ten days in an infinite quiet like that of Heaven. You sit in your deck-chair with the soft sea breeze on your forehead, as the mighty ocean cradle rocks you, and see the lace of an exquisite beauty that no Tyrian weaver ever devised, breaking over the blue or purple waves, with their tints that no Tyrian dye ever matched. Ah! Marconi, Marconi, could not you let us alone, and leave the tired brain of humanity one spot where this "hodge-podge of business and trouble and care" could not follow us and find us out?

On this journey I visited England, France and Switzerland. It so happened that I had had a good deal to do with the appointment of our Ministers to these three countries. Colonel John D. Washburn, a very accomplished and delightful gentleman, now dead, had been a pupil of mine as a law student. He lived in Worcester and had been a very eminent member of the Massachusetts Legislature. I think he would have been Governor of the State and had a very

brilliant career but for a delicacy of organization which made him break down in health when under any severe strain of responsibility, especially such as involved antagonism and conflict. He was of a very friendly, gentle disposition, and disliked to be attacked or to attack other men. I told Mr. Blaine, the Secretary of State when Mr. Harrison's Administration came in, that I had but one favor to ask of it; that was, that he should send Washburn as Minister to Switzerland. I had two or three very pleasant days with him at Berne. But he had sent his family away and was preparing to resign his place. So I had not much opportunity of seeing Switzerland under his guidance.

Thomas Jefferson Coolidge, then Minister to France, had also been appointed on my very earnest recommendation. He was a great-grandson of Thomas Jefferson, a very able business man, highly esteemed throughout the country. His guidance was implicitly followed by many people in important business transactions. He had had the charge of the financial affairs of some large manufacturing corporations, and was understood to have extricated the Northern Pacific Railroad out of some serious difficulties, into which it fell again after he left its control. He had been a Democrat. But he had seen the importance of the protective policy to American interests, as would naturally be expected of a descendant of that high protectionist, Thomas Jefferson. He had no sympathies with any measures that would debase or unsettle the currency, and set his face and gave his powerful influence against all forms of fiat or irredeemable paper money, and the kindred folly of the free coinage of silver by this country alone, without the concurrence of the commercial nations of the world.

Soon after Mr. Harrison's Administration began, I received a message about nine o'clock one evening, asking me to go to the White House at once. I obeyed the summons. The President said he desired, if I had no objection, to send in the name of Dr. Loring of Massachusetts, as Minister to Portugal. I told him that I had no objection whatever; that Dr. Loring was an able man of agreeable manners, and had performed admirably every public duty he had undertaken.

I said that the Doctor had felt a little disturbed, I thought, that I had refused to call a meeting of the Massachusetts delegation to press his name upon the President for a Cabinet office, to which President Harrison replied, "I put my foot on that pretty quick." Dr. Loring had been a great friend and supporter of Mr. Blaine, the Secretary of State. I conjectured, although the President did not say so, that the choice of Dr. Loring had been made at the Secretary's instance.

The President then said that he wanted to talk with me about the English Mission, which had troubled him a good deal. He mentioned the names of several prominent men in different parts of the country, including that of Robert Lincoln and Mr. Jewett, an eminent lawyer in Chicago, whose name was earnestly pressed upon him by the Senators from Illinois. I said that I had known Mr. Lincoln pretty well when he was in President Garfield's and Mr. Arthur's Cabinet, and thought very highly of him. He was a very modest man indeed, never pressing any claim to public consideration or office, either on his own account or as his father's son, and never seeking responsibility. But I had noticed that when he had anything to say or anything to do, he always said or did the wisest and best thing to be said or done under the circumstances. I do not know how much influence what I said had, but it seemed to gratify President Harrison exceedingly, and he stated that he was strongly inclined to appoint Mr. Lincoln.

I was told that the next morning he sent for the two Illinois Senators, and told them that he had made up his mind to nominate Mr. Lincoln, and that one of them, Senator Farwell, was exceedingly offended. He was also much disturbed by President Harrison's attitude in regard to the appointment of the postmaster at Chicago. The result was that when President Harrison's name came up for another nomination, Mr. Farwell was opposed to him, and when he was with difficulty nominated for reelection, the State of Illinois voted for Cleveland. Senator Cullom, though not liking very well to have his opinion disregarded, was more discreet. He did not see fit to make the exercise of the

President's rightful and Constitutional prerogative a reason for breaking off his friendly relations with the Administration, with whose principles he was in full accord. This is an instance of President Harrison's want of tact. I have little doubt that if, before finally announcing his intention, he had sent for the Illinois Senators—as Abraham Lincoln would have done, or as President McKinley would have done—gone over the whole ground with them, and told them his reasons and desire, they would have cheerfully acquiesced in the conclusion to which he had come, and their friendship with him would have been strengthened and not weakened.

After saying what was to be said about the English Mission, I said to President Harrison: "We have a gentleman in Massachusetts, whom I think it is very desirable indeed to place in some important public service; that is Thomas Jefferson Coolidge. He is a great-grandson of Mr. Jefferson." I said to the President the substance of what I have just stated above, about Mr. Coolidge. I added that while Mr. Coolidge would be an excellent person for the English Mission, which his uncle Mr. Stevenson had held, yet, of course, I did not think, under the circumstances, that it would be proper to make another important diplomatic appointment from Massachusetts just then; but I hoped that an opportunity might come later. President Harrison seemed to be much impressed with the suggestion, and said that he would bear it in mind.

When I went back to my room, it occurred to me that I had better speak to Mr. Blaine about it. If he first heard of it from the President he might think that I was trying to deal with the President about matters in his Department over his head and without consulting him. So I went round to the State Department early the next morning, and told Mr. Blaine what I had said to the President. I found that he knew all about Mr. Coolidge. I inadvertently spoke of him as grandson of Mr. Jefferson. Blaine immediately corrected me by saying, "great-grandson." He seemed to like the plan very well.

Nothing came of the matter at that time. But later, when the Pan-American Commission was appointed, the Presi-

dent, of his own motion, appointed Mr. Coolidge as one of the American representatives. Later, I happened to be one day at the White House, and President Harrison told me that Whitelaw Reid had announced his intention of resigning the French Mission before long. I reminded him of our conversation about Mr. Coolidge, and urged his name very strongly upon him. He hesitated a good deal. I got the approval of every New England Senator but one to the proposal. The President still hesitated and seemed inclined to appoint Mr. Andrew D. White. But he finally yielded to the urgency for Mr. Coolidge. I should have been sorry if anything I had done had resulted in depriving the country of the service of Andrew D. White. I suppose him to be one of the very best representatives we ever had abroad. But an opportunity came soon after, to send him first to Russia, and then to Germany, where he has represented what is best in the character, ability, desire, interest and scholarship of the American people.

So we had two first-rate representatives abroad instead of one. Mr. Coolidge discharged his functions to the satisfaction of the Administration, and to the universal approval of his countrymen.

He received me when I visited Paris with a very cordial and delightful hospitality. I had the pleasure of meeting at his house at dinner M. Ribot, then Prime Minister of France and afterward President of the French Republic, and several others of the leading men in their public life. But I spoke French very imperfectly indeed, and understood it much less, when spoken by a Parisian. The conversation was, in general, in French. So I got very little knowledge of them by being in their society.

My visit in England gave me a good deal more to remember. Mr. Lincoln also received me with great cordiality. He gave a dinner at which several of the leaders of the Liberal Party were present; among them, Sir William Vernon Harcourt. I had letters to Sir William Vernon Harcourt, and to Lord Rosebery, and to Lord Coleridge, Lord Chief Justice of England. Sir William Vernon Harcourt and Lord Rosebery each called on me, and spent an

hour at my room. But Parliament was dissolved just at that time, so the Liberal leaders had at once to begin the campaign which resulted in Mr. Gladstone's victory. So I had no opportunity to make an intimate acquaintance with either of them. I owed to Dr. Oliver Wendell Holmes an introduction to John Bellows, a Quaker, a most delightful gentleman, the first authority in his time on the Roman antiquities of Great Britain, a fine classical scholar and learned in old English literature and in the languages from which came the roots of our English tongue. I formed with him a close friendship which ended only with his death, in 1902. A year before he died he visited me in my home at Worcester, and received the degree of Master of Arts from Harvard. Mr. Bellows is the author of the wonderful French Dictionary.

I spent a few days with Lord Coleridge in Devon. His house at Ottery St. Mary's is close to the spot where Samuel Taylor Coleridge was born. I met there several of the race. I do not know whether they were living in the neighborhood or happened to be there on a visit.

I found in the church, close by, the tomb of John Sherman, one of my own kindred, I have no doubt, of the race which came from Colchester and Dedham in Essex, and Yaxley in Suffolk.

The Lord Chief Justice was much distressed lest he had done wrong in complying with General Butler's invitation to visit him at Lowell. He said that many of his American friends had treated him coldly afterward, and that his friend Richard Dana, whom he highly esteemed, had refused to call upon him for that reason.

I told him he did absolutely right, in my opinion. I said that General Butler was then Governor of the Commonwealth of Massachusetts, and that an eminent person, holding a high official character, from a foreign country, could not undertake to question the personal character, or the title to be considered gentlemen, of the men whom the American people put into their high places.

Lord Coleridge said he received fifty guineas every morning for his services in the Tichborn trial. "But," he added,

"my general practice in my profession was so much interrupted by it that I could not have got along that year but for my salary as Attorney-General."

He spoke with great pride of his cross-examination of the Claimant. He said one of the papers had complained that his cross-examination did no good to his case whatever. "But I made him admit that he sent his photograph to some person, as the photograph of Arthur Orton." He said the common people in England still held to their belief that the Claimant was the genuine Sir Roger Tichborne, and, by a curious contradiction, this feeling was inspired largely by their sympathy with him as a man of humble birth. I said: "Yes, I think that is true. I heard somebody, a little while ago, say that they heard two people talking in the cars, and one of them said to the other, 'They wouldn't give him the estate, because he was the son of a poor butcher.'" This very much amused the Lord Chief Justice.

I asked him about the story I had heard and had verified some time before, of the connection, in the person of Lady Rolle, between two quite remote periods. Lady Rolle was alive until 1887, maintaining her health so that she gave dinner parties in that year, shortly before she died. She was the widow of Mr. Rolle, afterward Lord Rolle, who made a violent attack on Charles James Fox in 1783. He was then thirty-two years old. From him the famous satire, the Rolliad, took its name. When he went to pay his homage to Queen Victoria at her Coronation in Westminster Abbey, he was quite feeble, and rolled down the steps of the throne. The young Queen showed her kindness of heart by jumping up and going to help him up in person. Some of the English told the foreigners present at the ceremonial that that was part of the ceremony, and that the Rolles held their lands on the tenure of going through that performance at every coronation. Lady Rolle was married to her husband in 1820. He was then sixty-nine, and she a young girl of twenty years old. He was eighty or ninety years old when he died, and she survived as his widow for many years. Something came up on the subject of longevity which induced me to refer to this story and ask Lord Coleridge if

it were true. We were then riding out together; "Yes," said he, "there," pointing to a dwelling-place in full sight, "is the house where she lived."

His Lordship asked me about an American Judge with whom he had some acquaintance. I told him that I thought his reputation was rather that of a jurist than a Judge. "Oh, yes," said he, "a jurist is a man who knows something about the law of every country but his own."

Lord Coleridge had a good reputation as a story-teller. It was pleasant to get an auditor who seemed to like to hear the stories which have got rather too commonplace to be worth telling over here. He had a great admiration for President Lincoln, and was eager to hear anything anybody had to tell about him. I told him the famous story of Lincoln's reply to the man who had left with him his poem to read, when he gave it back. "If anybody likes that sort of thing, it's just the sort of thing they'd like." I overheard his Lordship, as he circulated about the room, a little while afterward, repeating the story to various listeners.

He thought Matthew Arnold the greatest living Englishman. He spoke with great respect of Carlyle. He said: "Emerson was an imitator of Carlyle, and got his thoughts from him." I could not stand that. It seemed to me that he had probably never read a page of Emerson in his life, and had got his notion from some writer for a magazine, before either of these great men was well known. I took the liberty of saying, with some emphasis, "Emerson was a far profounder and saner intellect than Carlyle." To which he said, "Why, what do you say?" I repeated what I had said, and he received the statement with great politeness, but, of course, without assent.

During this summer I paid a visit to Moyle's Court, near Southampton, formerly owned by Lady Alice Lisle, whose daughter married Leonard Hoar, President of Harvard College. Leonard Hoar was the brother of my ancestor, John Hoar of Concord, and the son of Charles Hoar, Sheriff of Gloucester. There is a statement in an old account of some Puritan worthies that I have seen, to the effect that John

Hoar and Leonard married sisters. If that be true, John Hoar's wife, Alice, was a daughter and namesake of Lady Alice Lisle. Although I should like to believe it, I am afraid that the claim cannot be made good. Lady Alice Lisle was a lady of large wealth and good lineage. Her husband was John Lord Lisle, who was Lord Justice under Cromwell, and one of the Judges in the trial of Charles I. He drew the indictment and sentence of the King, and sat next to Bradshaw at the trial, and directed and prompted him in difficult matters. He was murdered one Sunday morning on his way to church when in exile at Lausanne, Switzerland, on the Lake of Geneva, by three ruffians, said to be sent for that purpose by Queen Henrietta. Lady Alice Lisle was a victim of the brutality of Jeffries. After Monmouth's rebellion and defeat, she gave shelter and food to two fugitives from Monmouth's army. The report of her trial is in Howell. There was no proof that she knew that they were fugitives from Monmouth's army, although she supposed one of them was a Dissenting minister. There had been no conviction of the principals, which the English law required before an accessory after the fact could be found guilty. She suggested this point at the trial, but it was overruled by Jeffries. He conducted the case with infinite brutality. She was a kindly old lady, of more than seventy years. She slept during part of the trial, probably being fatigued by the journey, in which she had been carried on horseback from Moyle's Court to Winchester, and the sleepless nights which would naturally have followed. She was sentenced to be burned at the stake. But the sentence was commuted to beheading, at the intercession of the gentry of the neighborhood. She had disapproved of the execution of the King; said she had always prayed for him, and had a son in the King's army. Macaulay's account of the story is familiar to all readers of English history.

I was received at the old house with great kindness by Mrs. Fane, wife of the present proprietor. It is a beautiful old house with carved oak partitions, with a dining room rising to the roof. Lady Lisle's chamber and the place where the two fugitives were concealed are still shown.

Mrs. Fane had gathered some local traditions which are not found in print. One old lady, who had been well known to persons now living, had received some of them from her grandmother, who was cotemporary with Lady Alice.

The lady was very popular with her tenants in the neighborhood. The messenger who came from Winchester to arrest her took her on horseback behind him, according to the custom of the time. The horse cast a shoe. The messenger was for pressing on without regard to the suffering of the animal. She insisted that he should stop and have the horse shod. The man roughly refused. She said: "I have made no outcry, on my own account. But everybody here loves me. If you do not stop, I shall cry out. You will never get away with me alive." The fellow was frightened and consented to stop at a smithy. When the smith had finished his work, Lady Lisle said: "I will be back this way in two or three days, and I will pay you." To this the messenger said: "Yes, you will be back this way in two or three days, but without your head."

The headless body was brought back from Winchester after the trial. The next day, when the household were at dinner, a man came to the outside and thrust into the dining room window a basket, containing her head. This was said to be for "greater indignity."

Lady Lisle had known Hicks, one of the persons whom she relieved, before. When the court was sitting for the trial of Charles I., she went up to London to expostulate with her husband. She arrived at his lodgings just as he was setting out in a procession, with some state, for Westminister Hall, where the trial was held. As she approached to speak to him, he did not recognize her in the soiled dress in which she had travelled, and motioned her away rather roughly. It was said that she was overcome by the press in the crowd and fell to the ground. Hicks, who was a Dissenting minister, raised her up and took her to his own lodging near by in the Strand. She said to him that she could not recompense him there, but if he would come to Hampshire, or to the Isle of Wight, where she had property, she would be glad to repay him.

Saturday, October 22, 1892, with Mrs. Hoar and her sister, Mrs. Rice, I went from Southampton to Ringwood, about twenty miles, and thence drove to Ellingham Church, about two miles and a half. The church is a small but very beautiful structure of stone, with a small wooden belfry. The tomb of Lady Alice Lisle is a heavy, flat slab of gray stone, raised about two or three feet from the ground, bearing the following inscription:

Here lies Dame Alicia Lisle
and her daughter Ann Harfeld
who dyed the 17th of Feb. 1703–4
Alicia Lisle dyed the
second of Sept. 1685.

It is close to the wall of the church, on the right of the porch. In the church is seen the old Lisle pew of carved oak, now the pew of the Earl of Normanton. Opposite the pew is the pulpit, also of carved black oak, apparently ancient. The church contains a tablet to the memory of the former owner of Moyle's Court, who died in 1622.

Moyle's Court is about a mile and a half from Ellingham Church. The drive is along a beautiful lane shaded by trees whose branches meet from the two sides, through a beautiful and fertile country, adorned by herds of fine cattle. Moyle's Court is a large two-story building, consisting of two square wings connected by the main building. The wings project from the main building in front, but the whole forms a continuous line in the rear. As you approach it, you pass numerous heavy, brick outbuildings, including several farmhouses, one of which is quite large, and apparently of great antiquity. We were received by Mrs. Fane with the greatest courtesy. She said that the landed estate connected with Moyle's Court is very large, now or recently yielding the Earl of Normanton seven thousand pounds a year.

The present occupant of Moyle's Court, Frederick Fane, Esq., came there about twenty-one years before. The house was then much dilapidated, but he has restored it in a style in keeping with the ancient architecture. The principal

room is a dining hall, rising from the ground some twenty-five feet in height, with a gallery at one end, on a level with the second story. The walls of this room are of beautiful, carved oak, the front of the gallery being ancient, and as it existed in the time of Lady Alice Lisle. The staircase, also of fine, carved oak, is of equal antiquity. The carved oak in the passages and some of the other rooms has been restored by Mr. Fane from material found in the attic. There is also a curious old kitchen, with a large fireplace, with a closet in the chimney where it is said one of the persons succored by Lady Alice Lisle was found hidden. In the cellar is a curiously carved head on a stone beam, which seemed as if it might formerly have supported a mantelpiece or shelf. It is said that this portion of the cellar was once a chapel.

Some of the chambers have been named by Mr. Fane from persons connected with the tragedy—Dame Alicia, Monmouth, Nelthrop, Hicks, Tryphena—these names being inscribed on the doors. The room is shown where Lady Lisle is said to have been seized.

The old tombstone over the grave of Leonard Hoar and his wife, at the Quincy burial-ground, in Massachusetts, is almost an exact copy of that over Lady Alice Lisle, at Ellerton near Moyle's Court. They were doubtless selected by the same taste. Mrs. Leonard Hoar, whose maiden name was Bridget Lisle, was connected quite intimately with three of the great tragedies in the history of English liberty. Her father, as has been said, was murdered at Lausanne. Her mother was murdered under the form of the mock judgment of Jeffries, at Winchester. Her niece married Lord Henry Russell, son of the Duke of Bedford, and brother of Lord William Russell, the story of whose tragic death is familiar to every one who reads the noble history of the struggle between liberty and tyranny which ended with the Revolution of 1688.

Bridget Hoar married again after the death of her husband, President Hoar. Her second husband was a Mr. Usher, who seems to have been insane. She lived with him very unhappily, then separated from him and went back to

England, staying there until he died. She then came back to Boston and died, May 25, 1723. At her own request she was buried at the side of her first husband. A great concourse of the clergy and the principal citizens, including the Governor, attended her funeral.

It was my good fortune to be instrumental, after this visit, in correcting an evil which had caused great annoyance to our representatives abroad for a good many years.

The Americans have never maintained their representatives abroad with a dignity becoming a great power like the United States. The American Minister is compelled by our rules to wear a dress which exposes him to be mistaken for a waiter at any festive gathering. Distinctions of rank are well established in the diplomatic customs of civilized nations. It is well understood that whether a representative of a country shall be an Ambassador, a Minister Plenipotentiary, a Minister Resident, or a Chargé d'affaires, depends on the sense of its rank among the nations of the world of the country that sends him. For many years all argument was lost on Congress. The United States representative must not adopt the customs as to dress of the effete monarchies of the old world. To send an Ambassador instead of a Minister was to show a most undemocratic deference to titles, abhorrent to every good republican. There had been several attempts to make a change in this matter, always unsuccessful, until I went abroad in 1892.

When I was in London in that year, I saw a great deal of Mr. Lincoln. He told me how vexatious he found his position. When the Minister for Foreign Affairs received the diplomatic representatives of other countries at the Foreign Office, Ambassadors were treated as belonging to one rank, or class, and the Ministers as to a lower one. The members of each class were received in the order of their seniority. We change our Ministers with every Administration. So the Minister of the United States is likely to be among the juniors. He might have to wait all day, while the representatives of insignificant little States were received one after another. If, before the day ended, his turn came, some Ambassador would arrive, who would get there, perhaps,

five minutes before it was time for Mr. Lincoln to go in, he had precedence at once. So the representative of the most powerful country on earth might have to lose the whole day, only to repeat the same experience on the next.

An arrangement was made which partly cured the trouble by the Minister for Foreign Affairs receiving Mr. Lincoln, on special application, informally, at his residence, on some other day. But that was frequently very inconvenient. And, besides, it was not always desirable to make a special application for an audience, which would indicate to the English Government that we attached great importance to the request he might have to make, so that conditions of importance would be likely to be attached to it by them. It was quite desirable, sometimes, to mention a subject incidentally and by the way, rather than to make it matter of a special appointment.

When I got to Paris, I found Mr. Coolidge complaining of the same difficulty. I told our two Ministers that when I got home I would try to devise a remedy. Accordingly I proposed and moved as an amendment to the Consular and Diplomatic Appropriation Bill, the following clause:

"Whenever the President shall be advised that any foreign government is represented, or is about to be represented in the United States, by an Ambassador, Envoy Extraordinary, Minister Plenipotentiary, Minister Resident, Special Envoy, or Chargé d'affaires, he is authorized, in his discretion, to direct that the representative of the United States to such government shall bear the same designation. This provision shall in no wise affect the duties, powers, or salary of such representative."

This had the hearty approval of Senators Allison and Hale, the leading members of the Committee on Appropriations, and was reported favorably by that Committee.

Senator Vest was absent when the matter came up, and it passed without opposition. Mr. Vest announced, the next day, that he had intended to oppose it. I am afraid if he had, he would have succeeded in defeating it.

When it went to the House, the Committee on Appropriations consented to retain the amendment, and it was favored by Mr. Hitt of Illinois, who had, himself, represented the country abroad and knew all about such matters. There was a little opposition in the House. But it was quieted without great difficulty. Vice-President Morton, who had, himself, represented the country at Paris, went personally to the House and used his great influence in favor of the proposition. Mr. Blount of Georgia, a very influential Democrat, threatened to make a strong opposition. But the gentlemen who favored it said to him: "Now you are going out of the House, but your countrymen will not long let you stay in retirement. You will be summoned to important public service somewhere. It is quite likely that your political friends will call you to one of these important diplomatic places, where you will be in danger of suffering the inconvenience yourself, if the present system continue." Mr. Blount was pacified. And the measure which I think would have been beaten by a pugnacious opposition in either House of Congress, got through.

Among the most impressive recollections of my life is the funeral of Tennyson in Westminister Abbey. I got a seat at the request of the American Minister by the favor of Archdeacon Farrar, who had charge of the arrangements. It was a most impressive scene. I had a seat near the grave, which was in the Poets' Corner, of which the pavement had been opened. The wonderful music; the stately procession which followed the coffin through the historic West entrance, in the most venerable building in the world, to lay the poet to sleep his last sleep with England's illustrious dead of more than a thousand years,

> In those precincts where the mighty rest,
> With rows of statesmen and with walks of Kings,

to which

> Ne'er since their foundation came a nobler guest,

was unspeakably touching and impressive. The solemn

burial service was conducted by the aged Dean, doomed, not long after, to follow the beloved poet to his own final resting-place near by.

The choir sang two anthems, both by Tennyson—"Crossing the Bar" and "Silent Voices"—the music of the latter by Lady Tennyson.

The grave lay next to Robert Brownings', hard by the monument to Chaucer. I looked into it and saw the oaken coffin with the coronet on the lid.

The pall-bearers were the Duke of Argyle, Lord Dufferin, Lord Selbourne, Lord Rosebery, Mr. Jowett, Mr. Lecky, Mr. Froude, Lord Salisbury, Dr. Butler, Head of Trinity, Cambridge, Sir James Paget, Lord Kelvin and the United States Minister. The place of Mr. Lincoln, who had gone home on leave of absence, was taken by Mr. Henry White.

After depositing the body, the bearers passed the seat where I sat, one by one, pressing through between two rows of seats, so that their garments touched mine as they went by.

The day was cloudy and mournful, blending an unusual gloom with the dim religious light of the Abbey. But just as the body was let down into the earth, the sun came out for a moment from the clouds, cheering and lightening up the nave and aisles and transepts of the mighty building. As the light struck the faces of the statues and the busts, it seemed for a moment that the countenances changed and stirred with a momentary life, as if to give a welcome to the guest who had come to break upon their long repose. Of course it was but an idle imagination, begot, perhaps, of the profound excitement which such a scene, to the like of which I was so utterly unaccustomed, made upon me. But as I think of it now, I can hardly resist the belief that it was real.

It was my good fortune during this journey to become the purchaser of Wordsworth's Bible. It was presented to him by Frederick William Taber, the famous writer of hymns. While it is absolutely clean, it bears the mark of much use. It was undoubtedly the Bible of Wordsworth's old age. On my next visit to England I told John Morley about it. He said, if it had been known, I never should have been allowed

to take it out of England. It bears the following inscription in Taber's handwriting:

William Wordsworth
From Frederick Wm Taber,
In affectionate acknowledgment of his many kindnesses,
and of the pleasure and advantage of his friendship.
Ambleside. New Year's Eve. 1842. A. D.
Be stedfast in thy Covenant, and be *conversant*
therein, and wax old in thy work.
Ecclesiasticus XI. 20.

CHAPTER XXI

VISITS TO ENGLAND

1896

In 1896 I found myself again utterly broken down in health and strength. I had, the November before, a slight paralysis in the face, which affected the muscles of the lower lid of one of my eyes, causing a constant irritation in the organ itself. After a time this caused a distortion of the lips, which I concealed somewhat by a moustache. But it operated, for a little while, as an effective disguise. When I came home during the winter, an old conductor on the Boston & Albany Railroad, whom I had known quite well, when he took my ticket looked at me with some earnestness and said, "Are you not related to Senator Hoar?" To which I answered, "I am a connection of his wife, by marriage."

I found I must get rid of the work at home, if I were to get back my capacity for work at all. So I sailed for Southampton before the session of Congress ended. It was the only time I had absented myself from my duties in Congress, except for an urgent public reason, for twenty-seven years and more.

I saw a good many interesting English people. It is not worth while to give the details of dinners and lunches and social life, unless something of peculiar and general interest occur. Almost every American who can afford it goes abroad now. Our English kinsmen are full of hospitality. They have got over their old coldness with which they were apt to receive their American cousins, although they were always the most delightfully hospitable race on earth when you had once got within the shield of their reserve.

I remember especially, however, a very pleasant Sunday spent on the Thames, at the delightful home of William

Grenfell, Esq., which I mention because, by a fortunate accident, the visit had some very interesting consequences. There I met Sir John Lubbock, now Baron Avebury, famous for his writings on financial questions and on Natural History, especially for his observations of the habits of ants. He told me, if I am not mistaken, that he had personally watched the conduct and behavior of more than fifteen thousand individual ants. There was a company of agreeable English ladies and gentlemen. They played games in the evening after dinner, as you might expect of a company of American boys and girls of sixteen or eighteen years old.

Mr. Grenfell was a famous sportsman. His house was filled with the trophies of his skill in hunting. I was told that he had crossed the Channel in a row-boat.

Sir John Lubbock invited me to breakfast with him a few days afterward in St. James Square. There I met a large number of scientific men, among them the President of the Geographical Society, and the Presidents or Heads of several other of the important British Societies. I was presented to all these gentlemen. But I found I could not easily understand the names, when they were presented. Englishmen usually, even when they speak the language exactly as we do, have a peculiar pronunciation of names, which makes it very hard for an American ear to catch them. I could not very well say, "What name did you say?" or ask the host to repeat himself. So I was obliged to spend the hour in ignorance of the special dignity of most of the illustrious persons whom I met.

Just behind my chair hung a full-length portrait of Admiral Boscawen, a famous naval officer connected with our early history. For him was named the town of Boscawen in New Hampshire, where Daniel Webster practised law. The house where we were had been his. I think he was in some way akin to the host.

I sailed for home on Wednesday. The Friday night before, I dined with Moreton Frewen, Esq., an accomplished English gentleman, well known on this side of the Atlantic. Mr. Frewen had been very kind and hospitable to me, as he had been to many Americans. He deserves the gratitude

of both nations for what he has done to promote good feeling between the two countries by his courtesy to Americans of all parties and ways of thinking. He has helped make the leading men of both countries know each other. From that knowledge has commonly followed a hearty liking for each other.

I mention this dinner, as I did the visit to Mr. Grenfell, because of its connection with a very interesting transaction. The guests at the dinner were Sir Julian Pauncefote, afterward Lord Pauncefote, the British Ambassador to the United States, who was then at home on a brief visit; Sir Seymour Blaine, an old military officer who had won, as I was told, great distinction in the East, and two Spanish noblemen.

The soldier told several very interesting stories of his military life, and of what happened to him in his early days.

Of these I remember two. He said that when he was a young officer, scarcely more than a boy, he was invited by the Duke of Wellington, with other officers, to a great ball at Apsley House. Late in the evening, after the guests had left the supper room, and it was pretty well deserted, he felt a desire for another glass of wine. There was nobody in the supper room. He was just pouring out a glass of champagne for himself, when he heard a voice behind him. "Youngster, what are you doing?" He turned round. It was the Duke. He said, "I am getting a glass of wine." To this the Duke replied, "You ought to be up-stairs dancing. There are but two things, Sir, for a boy like you to be doing. One is fighting; the other dancing with the girls. As for me I'm going to bed." Thereupon the Duke passed round the table; touched a spring which opened a secret door, in what was apparently a set of book-shelves, and disappeared.

Sir Seymour Blaine told another story which, I dare say, is well known. But I have never seen it in print. He said that just before the Battle of Talavera when the Duke, then Sir Arthur Wellesley, was in command in Spain, the English and French armies had been marching for many days

on parallel lines, neither quite liking to attack the other, and neither having got the advantage in position which they were seeking. At last, one day, when everybody was pretty weary with the fatigues of the march, the Duke summoned some of his leading officers together and said to them: "You see that clump of trees (pointing to one a good distance away, but in sight from where they stood)—when the head of the French column reaches that clump of trees, attack. As for me I'm going to sleep under this bush." Thereupon the great soldier lay down, all his arrangements being made, and everything being in readiness, and took his nap while the great battle of Talavera—on which the fate of Spain and perhaps the fate of Europe depended—was begun. This adds another instance to the list of the occasions to which Mr. Everett refers when he speaks of Webster's sleeping soundly the night before his great reply to Hayne.

"So the great Condé slept on the eve of the battle of Rocroi; so Alexander slept on the eve of the battle of Arbela; and so they awoke to deeds of immortal fame!"

But this dinner of Mr. Frewen's had a very interesting consequence. As I took leave of him at his door about eleven o'clock, he asked me if there were anything more he could do for me. I said, "No, unless you happen to know the Lord Bishop of London. I have a great longing to see the Bradford Manuscript before I go home. It is in the Bishop's Library. I went to Fulham the other day, but found the Bishop was gone. I had supposed the Library was a half-public one. I asked the servant who came to the door for the librarian. He told me there was no such officer, and that it was treated in all respects as a private library. But I should be very glad if I could get an opportunity to see it." Mr. Frewen answered, "I do not myself know the Bishop. But Mr. Grenfell, at whose house you spent Sunday, a little while ago, is his nephew by marriage. He is in Scotland. But if I can reach him, I will procure for you a letter to his uncle." That was Friday. Sunday morning there came a note from Mr. Grenfell to the Bishop. I en-

closed it to his Lordship in one from myself, in which I said that if it were agreeable to him, I would call at Fulham the next Tuesday, at an hour which I fixed. I got a courteous reply from the Bishop, in which he said that he would be glad to show me the "log of the Mayflower," as he called it. I kept the appointment, and found the Bishop with the book in his hand. He received me very courteously, and showed me a little of the palace. He said that there had been a Bishop's palace on that spot for more than a thousand years.

I took the precious manuscript in my hands, and examined it with an almost religious reverence. I had delivered the address at Plymouth, the twenty-first of December, 1895, on the occasion of the two hundred and seventy-fifth anniversary of the landing of the Pilgrims upon the rock. In preparing for that duty I read carefully, with renewed enthusiasm and delight, the noble and touching story as told by Governor Bradford. I declared then that this precious history ought to be in no other custody than that of their children.

There have been several attempts to procure the return of the manuscript to this country. Mr. Winthrop, in 1860, through the venerable John Sinclair, Archdeacon, urged the Bishop of London to give it up, and proposed that the Prince of Wales, then just coming to this country, should take it across the Atlantic and present it to the people of Massachusetts. The Attorney-General, Sir Fitzroy Kelley, approved the plan, and said it would be an exceptional act of grace, a most interesting action, and that he heartily wished the success of the application. But the Bishop refused. Again, in 1869, John Lothrop Motley, then Minister to England, who had a great and deserved influence there, repeated the proposition, at the suggestion of that most accomplished scholar, Justin Winsor. But his appeal had the same fate. The Bishop gave no encouragement, and said, as had been said nine years before, that the property could not be alienated without an Act of Parliament. Mr. Winsor planned to repeat the attempt on his visit to England in 1887. When he was at Fulham the Bishop was absent, and he was obliged to go home without seeing him in person.

In 1881, at the time of the death of President Garfield, Benjamin Scott, Chamberlain of London, proposed again in the newspapers that the restitution should be made. But nothing came of it.

When I went abroad I determined to visit the locality on the borders of Lincolnshire and Yorkshire, from which Bradford and Brewster and Robinson, the three leaders of the Pilgrims, came, and where their first church was formed, and the places in Amsterdam and Leyden where the emigrants spent thirteen years. But I longed especially to see the manuscript of Bradford at Fulham, which then seemed to me, as it now seems to me, the most precious manuscript on earth, unless we could recover one of the four gospels as it came in the beginning from the pen of the Evangelist.

The desire to get it back grew and grew during the voyage across the Atlantic. I did not know how such a proposition would be received in England. A few days after I landed I made a call on John Morley. I asked him whether he thought the thing could be done. He inquired carefully into the story, took down from his shelf the excellent though brief life of Bradford in Leslie Stephen's "Biographical Dictionary," and told me he thought the book ought to come back to us, and that he should be glad to do anything in his power to help. It was my fortune, a week or two after, to sit next to Mr. Bayard at a dinner given to Mr. Collins, by the American consuls in Great Britain. I took occasion to tell him the story, and he gave me the assurance, which he afterward so abundantly and successfully fulfilled, of his powerful aid. I was compelled, by the health of one of the party with whom I was travelling, to go to the Continent almost immediately, and was disappointed in the hope of an early return to England.

After looking at the volume and reading the records on the flyleaf, I said: "My Lord, I am going to say something which you may think rather audacious. I think this book ought to go back to Massachusetts. Nobody knows how it got over here. Some people think it was carried off by Governor Hutchinson, the Tory Governor; other people think it was carried off by British soldiers when Boston was

evacuated; but in either case the property would not have changed. Or, if you treat it as booty, in which last case, I suppose, by the law of nations ordinary property does change, no civilized nation in modern times applies that principle to the property of libraries and institutions of learning."

The Bishop said: "I did not know you cared anything about it."

"Why," said I, "if there were in existence in England a history of King Alfred's reign for thirty years, written by his own hand, it would not be more precious in the eyes of Englishmen than this manuscript is to us."

"Well," said he, "I think myself that it ought to go back, and if it depended on me it would have gone back before this. But many of the Americans who have been here have been commercial people, and did not seem to care much about it except as a curiosity. I suppose I ought not to give it up on my own authority. It belongs to me in my official capacity, and not as private or personal property. I think I ought to consult the Archbishop of Canterbury. And, indeed," he added, "I think I ought to speak to the Queen about it. We should not do such a thing behind Her Majesty's back."

I said: "Very well, when I go home I will have a proper application made from some of our literary societies, and ask you to give it consideration."

I saw Mr. Bayard again and told him the story. He was at the train when I left London for the steamer at Southampton. He entered with great interest into the matter, and told me again he would do anything in his power to forward it.

When I got home I communicated with Secretary Olney about it, who took a kindly interest in the matter, and wrote to Mr. Bayard that the Administration desired he should do everything in his power to promote the application. The matter was then brought to the attention of the Council of the American Antiquarian Society, the Massachusetts Historical Society, the Pilgrim Society of Plymouth and the New England Society of New York. These bodies ap-

pointed committees to unite in the application. Governor Wolcott was also consulted, who gave his hearty approbation to the movement, and a letter was despatched through Mr. Bayard.

Meantime, Bishop Temple, with whom I had my conversation, had himself become Archbishop of Canterbury, and in that capacity Primate of all England. His successor, Rev. Dr. Creighton, had been the delegate of Emanuel, John Harvard's College, to the great celebration at Harvard University in 1886, on the two hundred and fiftieth anniversary of its foundation. He had received the degree of Doctor of Laws from the University, had been a guest of President Eliot, and had received President Eliot as his guest in England.

The full story of the recovery of the manuscript, in which the influence of Ambassador Bayard and the kindness of Bishop Temple, afterward Archbishop of Canterbury, had so large a part, is too long to tell here. Before the question was decided Archbishop Temple consulted Her Majesty, Queen Victoria, who took a deep interest in the matter, and gave the plan her cordial approval. I think, as I had occasion to say to the British Ambassador afterward, that the restoration of this priceless manuscript did more to cement the bonds of friendship between the people of the two countries than forty Canal Treaties. In settling Imperial questions both nations are thinking, properly and naturally, of great interests. But this restoration was an act of purest kindness. The American people, in the midst of all their material activities, their desire for wealth and empire, are a sentimental people, easily and deeply stirred by anything that touches their finer feelings, especially anything that relates to their history.

The Bishop was authorized to return the manuscript by a decree rendered in his own Court, by his Chancellor. The Chancellor is regarded as the servant of the Bishop, and holds office, I believe, at his will. But so does the King's Chancellor at the King's will. I suppose the arrangement by which the Chancellor determines suits in which his superior is affected may be explained on the same ground as

the authority of the Lord Chancellor to determine suits in which the Crown is a party.

I was quite curious to know on what ground, legal or equitable, the decree for the restoration of the manuscript was made. I wrote, after the thing was over, to the gentleman who had acted as Mr. Bayard's counsel in the case, asking him to enlighten me on this subject. I got a very courteous letter from him in reply, in which he said he was then absent from home, but would answer my inquiry on his return. After he got back, however, I got a formal and ceremonious letter, in which he said that, having been employed by Mr. Bayard as a public officer, he did not think he was at liberty to answer questions asked by private persons. As the petition and decree had gone on the express ground that the application for the return of the manuscript was made by Mr. Bayard, not in his official, but only in his private capacity, as he had employed counsel at my request, and I had been responsible for their fees, I was, at first, inclined to be a little vexed at the answer. On a little reflection, however, I saw that it was not best to be too curious on the subject; that where there was a will there was a way, and probably there was no thought, in getting the decree, on the part of anybody concerned, to be too strict as to legalities. I was reminded, however, of Silas Wegg's answer to Mr. Boffin, when he read aloud to him and his wife evening after evening "The Decline and Fall of the Roman Empire," which Silas had spoken of at first, as "The Decline and Fall of the Russian Empire." Mr. Boffin noticed the inconsistency, and asked Mr. Wegg why it was that he had called it "The Decline and Fall of the Russian Empire" in the beginning. To which Mr. Wegg replied that Mrs. Boffin was present, and that it would not be proper to answer that question in the presence of a lady.

The manuscript was brought to Massachusetts by Mr. Bayard, on his return to the United States at the end of his official term. It was received by the Legislature in the presence of a large concourse of citizens, to whom I told the story of the recovery. Mr. Bayard delivered the book to the Governor and the Legislature with an admirable

speech, and Governor Wolcott expressed the thanks of the State in an eloquent reply. He said that "the story of the departure of this precious work from our shores may never in every detail be revealed; but the story of its return will be read of all men, and will become a part of the history of the Commonwealth. There are places and objects so intimately associated with the world's greatest men or with mighty deeds that the soul of him who gazes upon them is lost in a sense of reverent awe, as it listens to the voice that speaks from the past, in words like those which came from the burning bush, 'Put off thy shoes from off thy feet, for the place whereon thou standest is holy ground.'

"The story here told is one of triumphant achievement, and not of defeat. As the official representative of the Commonwealth, I receive it, sir, at your hands. I pledge the faith of the Commonwealth that for all time it shall be guarded in accordance with the terms of the decree under which it is delivered into her possession as one of her chiefest treasures. I express the thanks of the Commonwealth for the priceless gift, and I venture the prophecy that for countless years to come and to untold thousands these mute pages shall eloquently speak of high resolve, great suffering and heroic endurance made possible by an absolute faith in the over-ruling providence of Almighty God."

The Bishop gave the Governor of Massachusetts the right to deposit the manuscript either in his office at the State House or with the Massachusetts Historical Society, of which Archbishop Temple and Bishop Creighton, who succeeded Bishop Temple in the See of London, were both Honorary members. The Governor, under my advice, deposited the manuscript in the State House. It seemed to him and to me that the Commonwealth, which is made up of the Colony which Bradford founded, and of which he was Governor, blended with that founded by the Puritans under Winthrop, was the fitting custodian of the manuscript which contains the original record of the life in Leyden of the founders of Plymouth, of the voyage across the sea, and of the first thirty years of the Colony here. It is kept in the

State Library, open at the spot which contains the Compact made on board the Mayflower—the first written Constitution in history. Many visitors gaze upon it every year. Few of them look upon it without a trembling of the lip and a gathering of mist in the eye. I am told that it is not uncommon that strong men weep when they behold it.

CHAPTER XXII

SILVER AND BIMETALLISM

I was compelled, by the state of my health, to be absent from the country in the campaign which preceded the Presidential election of 1896, except for the last week or two. But, of course, I took a very deep interest indeed in the campaign. Mr. Bryan's theories, and those of his followers in many parts of the country, had thoroughly alarmed the business men of the Northern and Eastern States. But in the new States of the Northwest, especially in those that contained silver mines, a large majority of the people, without distinction of party, had become converts to the doctrine that the United States should coin silver at a ratio compared to gold of sixteen to one, and make the silver so coined legal tender in the payment of all debts, public and private. The price of silver as compared with that of gold had been constantly falling for several years past. This was attributed to the effect of the legislation which demonetized silver except to a limited amount. Several eminent Republicans, both in the Senate and in the House, as well as many others in private station, left the Republican Party on that issue. Several States that had been constantly and reliably Republican became Democratic or Populist, under the same influence.

The Democratic Platform of 1896 demanded the immediate restoration of the free coinage of gold and silver at the present ratio of 16 to 1, without waiting for the consent of any other nation. That doctrine was reaffirmed and endorsed in the Democratic National Platform for 1900.

There were two theories among the persons who desired to maintain the gold standard. One was entertained by the persons known as Gold Monometallists. They insisted that no value could be given to any commodity by legislation.

They said that nothing could restore silver to its old value as compared with gold; that its fall was owing to natural causes, chiefly to the increased production. They insisted that every attempt to restore silver to its old place would be futile, and that the promise to make the attempt, under any circumstances, was juggling with the people, from which nothing but disaster and shame would follow. They justly maintained that, if we undertook the unlimited coinage of silver, and to make it legal tender, under the inevitable law long ago announced by Gresham, the cheaper metal, silver, would flow into this country where it would have a larger value for the purpose of paying debts, and that gold, the more precious metal, would desert the country where there would be no use found for it so long as the cheaper metal would perform its function according to law. From this, it was claimed, would follow the making of silver the exclusive basis of all commercial transactions; the disturbance of our commercial relations with other countries, and the establishment of a standard of value which would fluctuate and shrink as the value of silver fluctuated and shrank. So that no man who contracted a debt on time could tell what would be the value of the coin he would be compelled to pay when his debt became due, and all business on earth would become gambling. They, therefore, demanded that the Republican Party should plant itself squarely on the gold standard; should announce its purpose to make gold the exclusive legal tender for the country, and appeal to the people for support in the Presidential election, standing on that ground.

To them their antagonists answered, that the true law was stated by Alexander Hamilton in his famous Report, accepted by all his contemporaries, and by all our statesmen of all parties down to 1873 or thereabouts, and recognised in the Constitution of the United States. That doctrine was, that the standard of value must necessarily be fixed by the agreement of all commercial nations. No nation could, without infinite suffering and mischief, undertake to set itself against the rule adopted by the rest of mankind. It was best, if the nations would consent to it, to have two metals

instead of one made legal tender, at a ratio to be agreed upon by all mankind, establishing what was called Bimetallism. If this were done, the Gresham law could not operate, because there would be no occasion for the cheaper metal to flow into any one country by reason of its having a preference there in the payment of debts; and nothing which would cause the more precious metal to depart from any country by reason of its being at a disadvantage. If such a rule were adopted, and a proper ratio once established, it would be pretty likely to continue, unless there were a very large increase in the production of one metal or the other. If the supply of gold in proportion to silver were diminished a little, the corresponding demand for silver by all mankind would bring up its price and cure the inequality. So, if the supply of gold were to increase in proportion to silver, a like effect would take place.

If, however, the nations of the world were to agree on one metal alone, it was best that the most precious metal should be taken for the purpose.

The above, in substance, was the doctrine of Alexander Hamilton, the ablest practical financier and economist that ever lived, certainly without a rival in this country.

The duties specially assigned to me in the Senate and in the House related to other matters. But I made as thorough and faithful a study as I could of this great question, and accepted Hamilton's conclusions. I believed they were right in themselves, and thought the reasons by which they were supported, although the subject is complex and difficult, likely to find favor with the American people. Silver has always been a favorite metal with mankind from the beginning. While gold may be the standard of value, it is too precious to be a convenient medium of payment for small sums, such as enter into the daily transactions of ordinary life. It is said that you can no more have a double standard, or two measures of value, than you can have a double standard, or two measures of distance. But the compensating effect may be well illustrated by what is done by the makers of clocks for the most delicate measurements of time, such as are used for astronomical calculations. The

accuracy of the clock depends upon the length of the pendulum and the weight which the pendulum supports. If the disk at the end of the pendulum be hung by a wire of a single metal, that metal expands and shrinks in length under changing atmospheric influences, and affects the clock's record of time. So the makers of these clocks resort to two or three wires of different metals, differently affected by the atmosphere. One of these compensates for and supplements the other, so that the atmospheric changes have much less effect than upon a single metal.

Beside the fact that I thoroughly believed in the soundness of bimetallism, as I now believe in it, I thought we ought not to give our antagonists who were pressing us so hard, and appealing so zealously to every debtor and every man in pecuniary difficulties, the advantage, in debate before the people, of arraying on their side all our great authorities of the past. We had enough on our hands to encounter Mr. Bryan and the solid South and the powerful Democratic Party of New York and the other great cities, and every man in the country who was uneasy and discontented, without giving them the right to claim as their allies Alexander Hamilton, and George Washington, and Oliver Ellsworth, and John C. Calhoun, and Daniel Webster, and Henry Clay, and Thomas H. Benton. I was, therefore, eager that the Republican Party should state frankly in its platform what I, myself, deemed the sound doctrine. It should denounce and condemn the attempt to establish the free coinage of silver by the power of the United States alone, and declare that to be practical repudiation and national ruin. But I thought we ought also to declare our willingness, if the great commercial nations of the earth would agree, to establish a bimetallic system on a ratio to be agreed upon.

Some of the enemies of the Republican Party, who could not adopt the Democratic plan for the free coinage of silver, without contradicting all their utterances in the past, denounced this proposal as a subterfuge, a straddle, an attempt to deceive the people and get votes by pledges not meant to be carried out.

I believed then, and I believe now, that we were right in demanding that the Republican Party should go into the campaign with the declaration I have stated.

It is true that you cannot give value to any commodity by law. It is as idle to attempt to make an ounce of silver worth as much as an ounce of gold by legislation, as it is to try to make one pound weigh two pounds, or one yard measure two yards. You cannot increase the price of a hat, or a coat, or a farm, by act of Congress. The value of every article, whether gold or silver, whether used as money or as merchandise, must depend upon the inexorable law of demand and supply. But you can, by legislation, compel the use of an article, which use will create a demand for it, and the demand will then increase its price. If Congress shall require that every soldier in the United States Army shall wear a hat or a coat of a particular material or pattern, or shall enact that every man who votes shall come to the polls dressed in broadcloth, if there be a limited supply of these commodities, the price of the hat or the coat or the broadcloth will go up. So, when the nations of the world joined in depriving silver of one of its chief uses—that of serving the function of a tender for the payment of debts, the value of silver diminished because one large use which it had served before was gone. Whether this doctrine be sound or no, it was the result of as careful study as I ever gave in my life, to any subject, public or private. It was not only the doctrine of the Fathers, but of recent generations. It was the doctrine on which the Republicans of Massachusetts, a community noted for its conservatism and business sagacity, had planted the Commonwealth, and it was the doctrine on which the American people planted itself and which triumphed in the election of 1896.

I have been accused, sometimes, of want of sincerity, and, by one leading New England paper, with having an imperfect and confused understanding of the subject. Perhaps I may be pardoned, therefore, for quoting two testimonials to the value of my personal contribution to this debate. One came from Senator Clay of Georgia, one of the ablest of the Democratic leaders. After I had stated my doctrine in

a brief speech in the Senate one day, he crossed the chamber and said to me that, while he did not accept it, he thought I had made the ablest and most powerful statement of it he had ever heard or read. The other came from Charles Emory Smith, afterward a member of President McKinley's Cabinet and editor of the *Press,* a leading paper in Philadelphia. I have his letter in which he says that he thinks that an edition of at least a million copies of my speech on gold and silver should be published and circulated through the country. He also said, in an article in the *Saturday Evening Post,* June 14, 1902:

"In the great contest over the repeal of the Silver Purchase Act he made the most luminous exposition, both of what had been done, and the reasons for it; and what ought to be done, and the grounds for it, that was heard in the Senate."

It occurred to me that I could render a very great service to my country, during my absence, if I could be instrumental in getting a declaration from England and France that those countries would join with the United States in an attempt to reestablish silver as a legal tender.

It was well known that Mr. Balfour, Leader of the Administration in the House of Commons, was an earnest bimetallist. He had so declared himself in public, both in the House and elsewhere, more than once.

There had been a resolution, not long before, signed by more than two thirds of the French Chamber of Deputies, declaring that France was ready to take a similar action whenever England would move. I, accordingly, with the intervention of Mr. Frewen, the English friend I have just mentioned, arranged an interview with Mr. Balfour in Downing Street. We had a very pleasant conversation indeed. I told him that if he were willing, in case the United States, with France and Germany and some of the smaller nations, would establish a common standard for gold and silver, to declare that the step would have the approval of England, and that, although she would maintain the gold

standard alone for domestic purposes, she would make a substantial and most important contribution to the success of the joint undertaking, that it would insure the defeat of the project for silver monometallism, from which England, who was so largely our creditor, would suffer, in the beginning almost as much as we would, and perhaps much more, and would avert the panic and confusion in the business of the world which would be brought about by the success of the project.

I did not state to Mr. Balfour exactly what I thought the contribution of England to this result ought to be. He, on the other hand, did not tell me what he thought she would do. I did not, of course, expect that England would establish the free coinage of silver for her own domestic purposes. But I thought it quite likely that she would declare her cordial approval of the proposed arrangement between the other countries, and would reopen her India mints to the free coinage of the rupee, and maintain the silver standard for the Queen's three hundred million subjects in Asia. This contribution, I thought, if Great Britain went no farther, would give great support to silver, and would ensure the success of the concerted attempt of the other commercial nations to restore silver to its old place.

Mr. Balfour expressed his assent to my proposal, and entered heartily into the scheme. He said he would be very happy indeed to make such a declaration. I suggested to him that I had been authorized to say, by one or two gentlemen with whom I had talked, that, if he were willing, a deputation of the friends of Bimetallism would wait upon him, to whom he could express his opinion and purpose. He said he thought it would be better that he should write a letter to me, and that if I would write to him stating what I had said orally, he would answer it with such a statement as I desired. I told him I was going to Paris in a few days, and that I would write to him from Paris when I got there. The matter was left in that way. The next day, or the next day but one, a luncheon was given me at White's, the club famous for its memories of Pitt and Canning and the old statesmen of that time, and still the resort of many of the

Conservative leaders of to-day. There were present some fifteen or twenty gentlemen, including several members of the Government. A gentleman who had known of my interview with Mr. Balfour, and sat at the table some distance from me, made some allusion to it which was heard by most of the guests. I said that I did not like to repeat what Mr. Balfour had said; that gentlemen in his position preferred, if their opinions were to be made public, to do it for themselves, rather than to have anybody else do it for them. To this, one member of the Government—I think it was Sir Michael Hicks-Beach, but I will not undertake to be sure—said: "It is no secret that Mr. Balfour's opinions are those of a majority of Her Majesty's Government."

I went to Paris, and wrote at once the letter that had been agreed upon, of which I have in my possession a copy. I at once secured an introduction to M. Fougirot, the Member of the French Assembly who had drawn and procured the signatures to the resolution to which I just referred. That is, I am told, a not uncommon way in France of declaring the sense of the House in anticipation of a more formal vote. He entered heartily into the plan. He thought Germany would at once agree, at any rate, he was sure that Belgium, Spain, Italy and all the European commercial powers would come into the arrangement, and that the whole thing would be absolutely sure if Great Britain were to agree. I waited a week or two for the letter from Mr. Balfour. In the meantime I got a letter from Mr. Frewen, who told me that Mr. Balfour had shown him the letter he had written to me; that it was admirable, and eminently satisfactory. But no letter came. I waited another week or two, and then got another letter from Mr. Frewen, in which he said that he had taken no copy of Mr. Balfour's letter, and had returned the original, and asked me, if I had no objection, if I would give him a copy of it. I answered that I had heard nothing, whereupon Mr. Frewen wrote a note to Mr. Balfour, telling him that I had not heard. Mr. Balfour said that he had, after writing the letter, submitted it to a meeting of his colleagues; that one of them had expressed his most emphatic disapproval of the plan, and that he did not feel warranted

in taking such a step against the objection of one of his colleagues. I gathered, from what I heard afterward, that Mr. Balfour wished he had sent the letter without communicating its contents. But of this I have no right to be sure. Mr. Balfour sent Mr. Frewen the following letter, which is now in my possession. It was, I suppose with his approval, sent to me.

10 Downing Street, Whitehall, S. W.
August 6, 1896.

Dear Moreton Frewen.

I think Senator Hoar has just reason to complain of my long silence. But, the truth is that I was unwilling to tell him that my hopes of sending him a letter for publication had come to an end, until I was really certain that this was the case. I am afraid however that even if I am able now to overcome the objections of my colleagues, the letter itself would be too late to do much good. Please let me know what you think on this subject.

Yours sincerely,
Arthur James Balfour.

I never blamed him. He was in the midst of a good deal of difficulty with his Education Bill. Certainly there can be no obligation on the Leader of the English House of Commons to do anything that he is not sure is for the interests of his own country, or his own party, for the sake of benefiting a foreign country, still less for the sake of affecting its politics. Indeed, I suppose Mr. Balfour would have utterly and very rightfully disclaimed any idea of writing such a letter, unless he thought what was proposed would benefit England. When I went back to London, an offer was made me later to arrange another interview with Mr. Balfour, and see if something else could not be devised. This I declined. I thought I had gone as far as I properly could, with a due sense of my own dignity. The exigency at home had pretty much passed by.

A day or two after I got to Paris, after I had seen M. Fougirot, I cabled my colleague, Mr. Lodge, at St. Louis,

where the delegates to the convention to nominate a President were then gathering, stating my hope that our convention would insert in its platform a declaration of the purpose of the Republican Party to obtain, in concert with other nations, the restoration of silver as a legal tender in company with gold, and that I had reason to feel sure that such a plan could be accomplished. This cable reached St. Louis on the morning the convention assembled. I do not know how much influence it had, or whether it had any, in causing the insertion of that plank in the platform. Such a plank was inserted. In my opinion it saved the Presidential election, and, in my opinion, in saving the Presidential election, it saved the country from the incalculable evil of the free coinage of silver.

After I came home, at the next winter's session, I told the story of what I had done, to a caucus of the Republican Senators. A Committee was thereupon appointed by John Sherman, President of the Caucus, to devise proper means for keeping the pledge of the National platform and establishing international bimetallism in concurrence with other nations. The Committee consisted of Messrs. Wolcott, Hoar, Chandler, Carter and Gear. They reported the Act of March 3, 1897, authorizing a commission to visit Europe for that purpose, of which Senator Wolcott was chairman.

A Commission was sent abroad by President McKinley, in pursuance of the pledge of the Republican National platform, to endeavor to effect an arrangement with the leading European nations for an international bimetallic standard. Senator Wolcott of Colorado, who was the head of this Commission, told me he was emboldened to undertake it by the account I had given. The Commission met with little success. I conjecture that the English Administration, although a majority of the Government, and probably a majority of the Conservative Party, were Bimetallists and favored an international arrangement on principle, did not like to disturb existing conditions at the risk of offending the banking interests at London, especially those which had charge of the enormous foreign investments, the value of which would be constantly increasing so long as their debts

were payable, principal and interest, in gold, the value of which, also, was steadily appreciating.

It has been the fashion of some quite zealous—I will not say presumptuous, still less ignorant or shallow writers on this subject—to charge bimetallists with catering to a mischievous, popular delusion, for political purposes, or with shallowness in thinking or investigating. I have had my share of such criticism. All I have to say in reply to it is that I have done my best to get at the truth, without, so far as I am concerned, any desire except to get at and utter the truth. In addition to the authority of our own early statesmen, and to that of the eminent Englishmen to whom I have referred, I wish to cite that of my pupil and dear friend, General Francis A. Walker, who is declared by abundant European, as well as American authority, to be the foremost writer on money of modern times. He was a thorough believer in the doctrine I have stated.

He pointed out the danger, indeed the ruin, of undertaking to reestablish silver without the consent of foreign nations. But he declared that the happiness and, perhaps, the safety of the country rested on Bimetallism. He said:

"Indeed, every monometallist ought also to be a monoculist. Polyphemus, the old Cyclops, would be his ideal. Unfortunately our philosophers were not in the Garden of Eden at the time when the Creator made the mistake of endowing men with eyes in pairs. Perhaps it would not be too much to say that there are probably few men whose eyes do not differ from each other as to every element affecting vision by more than the degree from which gold and silver varied from the French standard of fifteen and a half to one for whole decades."

The German Imperial Parliament passed a resolution, in June, 1895, in favor of Bimetallism, and the Prussian Parliament passed a resolution favoring an international bimetallic convention, provided England joined it, May 22, 1895.

The great increase in the gold product of the world, and the constant diminution in the value of silver, have put an

end to the danger of the movement for the free coinage of silver, and made the question purely academic or theoretic, at any rate for a good while to come. The same causes have diminished the desire for a bimetallic standard, and make the difficulty of establishing a parity between silver and gold, for the present, almost insuperable. So the question which excited so much public feeling throughout the world for nearly a quarter of a century, and endangered not only the ascendency of the Republican Party, but the financial strength of the United States, has become almost wholly one of theory and of ancient history.

After leaving Paris I spent a few delightful weeks at Innsbruck in Austria, and Reichenhall in Germany, both near the frontier between those two countries. The wonderful scenery and the curious architecture and antiquity of those towns transport one back to the Middle Ages. But I suppose they are too well known now, to our many travellers, to make it worth while to describe them. I went to those places for the health of a lady nearly allied to my household. She was under the care of Baron Liebig, one of the most famous physicians in Germany, the son of the great chemist. I got quite well acquainted with him. He was a very interesting man. He had a peculiar method of dealing with the diseases of the throat and lungs like those under which my sister-in-law suffered. He had several large oval apartments, air-tight, with an inner wall made of porcelain, like that used for an ordinary vase or pitcher. From these he excluded all the air of the atmosphere, and supplied its place with an artificial air made for the purpose. The patients were put in there, remaining an hour and three quarters or two hours each day—I do not know but some of them a longer time. Then they were directed to take long walks, increasing them in length day by day, a considerable part of the walk being up a steep hill or mountain. I believe his method was of very great value to the patient who was in my company. The Baron thought he could effect a complete cure if she could stay with him several months. But that was impossible.

CHAPTER XXIII

VISITS TO ENGLAND

1899

I VISITED England again in 1899. I did not go to the Continent or to Scotland. My wife consulted a very eminent London physician for an infirmity of the heart. He told her to go to the Isle of Wight; remain there a few weeks; then to go to Boscombe; stay a few weeks there; then to Malvern Hills, and thence to a high place in Yorkshire, which, I believe, is nearly, if not quite, the highest inhabited spot in England. This treatment was eminently advantageous. But to comply with the doctor's direction took all the time we had at our command before going home.

We had a charming and delightful time in the Isle of Wight. We stayed at a queer little old Inn, known as the "Crab and Lobster," kept by Miss Cass, with the aid of her sister and niece. We made excursions about the island. I saw two graves side by side which had a good deal of romance about them. One was the grave of a woman. The stone said that she had died at the age of one hundred and seven. By its side was the grave of her husband, to whom she had been married at the age of eighteen, and who had died just after the marriage. So she had been a widow eighty-nine years, and then the couple, separated in their early youth, had come together again in the grave.

We found a singular instance of what Americans think so astonishing in England, the want of knowledge by the people of the locality with which they were familiar in life, of persons whose names have a world-wide reputation. In a churchyard at Bonchurch, about a mile from our Inn at Ventnor, is the grave of John Sterling—the friend of Emerson—of whom Carlyle wrote a memoir. Sterling is the

author of some beautiful hymns and other poems, including what I think the most splendid and spirited ballad in English literature, "Alfred the Harper." Yet the sexton who exhibited the church and the churchyard did not seem to know anything about him, and the booksellers near by never had heard of him. The sexton showed, with great pride, the grave of Isaac Williams, author of the "Shadow of the Cross" and some other rather tame religious poetry. He was a devout and good man, and seemed to be a feeble imitator of Keble. I dare say, the sexton first heard of Sterling and saw his grave when we showed it to him.

The scenery about Boscombe and the matchless views of the Channel are a perpetual delight, especially the sight, on a clear day, of the Needles.

We did not find it necessary to obey the doctor's advice to go to Yorkshire. After leaving Boscombe, I spent the rest of my vacation at Malvern Hills, some eight or nine miles north of Worcester, and some twenty miles from Gloucester.

The chief delight of that summer—a delight that dwells freshly in my memory to-day, and which will never be forgotten while my memory endures—was a journey through the Forest of Dean, in a carriage, in company with my friend—alas, that I must say my late friend!—John Bellows, of Gloucester. He was, I suppose, of all men alive, best qualified to be a companion and teacher on such a journey. He has written and published for the American Antiquarian Society an account of our journey—a most delightful essay, which I insert in the appendix. He tells the story much better than I could tell it. My readers will do well to read it, even if they skip some chapters of this book for the purpose. I am proud and happy in this way to associate my name with that of this most admirable gentleman.

I visited Gloucester. I found the houses still standing where my ancestors dwelt, and the old tomb in the Church of St. Mary de Crypt, with the word Hoare cut in the pavement in the chancel.

My ancestors were Puritans. They took an active part in the resistance to Charles I., and many traces are preserved of their activity in the civic annals of Gloucester.

Two of my name were Sheriffs in those days. There were two other Sheriffs whose wives were sisters of my direct ancestors. Charles Hoar, my direct ancestor, married one of the Clifford family, the descendant of the brother of Fair Rosamond, and their arms are found on a tomb, and also on a window in the old church at Frampton-on-Severn, eight miles from Gloucester, where the Cliffords are buried. The spot where fair Rosamond was born, still, I believe, belongs to the Clifford family.

I got such material as I could for studying the history of the military operations which preceded the siege and capture of Worcester and the escape of Charles II. Several of the old houses where he was concealed are shown, as also one in Worcester from which he made his escape out of the window when Worcester was stormed, just as Cromwell's soldiers were entering at the door.

Shakespeare used to pass through Gloucester on his way to London. Some of his celebrated scenes are in Gloucestershire. The tradition is that Shakespeare's company acted in the yard of the New Inn, at Gloucester, an ancient hostelry still standing, a few rods only from the Raven Tavern, which belonged to my ancestors, and is mentioned in one of their wills still extant. I have no doubt my kindred of that time saw Shakespeare, and saw him act, unless they had already learned the Puritanism which came to them, if not before, in a later generation.

I purchased, some years ago, some twenty ancient Gloucestershire deeds, of various dates, but all between 1100 and 1400. One of them was witnessed by John le Hore. It was of lands at Wotton-under-Edge in Gloucestershire. I have in my possession a will of Thomas Hore of Bristol, dated 1466, in which he mentions his wife Joanna, and his daughters Joanna and Margery, and his sons Thomas and John. These names—Thomas, John, Joanna and Margery—are the names of members of the family who dwelt in the city at Gloucester in later generations. So I have little doubt that Thomas was of the same race, although there is a link in the pedigree, between his death and 1560 or 1570 which I cannot supply. This Thomas bequeathes land at Wotton-

under-Edge, so I conjecture that John also was of the same race. A large old black oak chest bound with iron, bequeathed by Thomas to Bristol in 1466, is still in the possession of the city.

I was very much gratified that the people of the old City of Gloucester were glad to recognize the tie of kindred which I, myself, feel so strongly. I received a handsome box, containing a beautifully bound copy of an account of the City from the Trader's Association of the City of Gloucester. This account of the matter appears in the *Echo,* a local paper of July 4, 1899.

GLOUCESTER CITY. GLOUCESTER TRADERS' ASSOCIATION. INTERESTING PRESENTATION

On Monday evening a largely attended public meeting was held in the Guildhall under the auspices of the Gloucester Traders' Association for the purpose of hearing addresses on "The municipal electricity supply." Mr. D. Jones (president) occupied the chair, and there were also present on the platform the Mayor (Mr. H. R. J. Braine), City High Sheriff (Mr. A. V. Hatton), Councillors Holbrook, Poole and several members of the association.

The Chairman said that in his position as president of the association it was his pleasurable duty to present a copy of their guide to Mr. G. F. Hoar, the distinguished member of the United States Government, who had always taken a great interest in their historic City.—The presentation consisted of a handsomely carved box made by Messrs. Matthews and Co. from pieces of historic English oak supplied by Mr. H. Y. J. Taylor. On the outside of the cover are engraved the City arms, and a brass plate explaining the presentation. A beautifully printed copy of the well-known guide, bound in red morocco, has been placed within, and on the inside of the cover there is the following illuminated address:

"To the Hon. G. F. Hoar, of Worcester, Mass., Senator of the United States of America. Sir,—The members of the Traders' Association, Gloucester, England, ask your ac-

ceptance of a bound copy of their guide to this ancient and historic City, together with this box made from part of a rafter taken from the room in which Bishop Hooper was lodged the night before his burning, and from oak formerly in old All Saints' Church, as souvenirs of the regard which the association entertains for you and its recognition of your ardent affection for the City of Gloucester, the honored place of the nativity of the progenitor of your family, Charles Hoar, who was elder Sheriff in 1634; and may these sincere expressions also be typical of the sterling friendship existing between Great Britain and America."

"Senator Hoar had been unable to attend the meeting, and the presentation was entrusted to the American Vice-Consul, Mr. E. H. Palin, to forward to him. Remarking on the presentation, the Mayor expressed his regret that Mr. Hoar had been unable to accept the high and important position of American Ambassador which had been offered to him. Addresses on the installation of the electric light were then given by Mr. Hammond, M.I.C.E., and Mr. Spencer Hawes."

I was invited by the Corporation of the City to visit them in the fall and receive the freedom of the City, which was to be bestowed at the same time on Sir Michael Hicks-Beach. But I had arranged to return to the United States before the time fixed for the ceremonial. So I was deprived of that great pleasure and honor.

I had a great longing to hear the nightingale. I find in an old memorandum that I heard the nightingale in Warwickshire in 1860, somewhere about the twentieth of May. But the occurrence, and the song of the bird, have wholly faded from my memory. When I was abroad in 1892 and '96 I hoped to hear the song. But I was too late. Mrs. Warre, wife of the Rector of Bemerton, George Herbert's Parsonage, told me that the nightingales were abundant in her own garden close to the Avon, but that they did not sing after the beginning of the nesting session which, according to a note to White's "History of Selborne," lasts from the beginning of May to the early part of June. Waller says:

Thus the wise nightingale that leaves her home,
Pursuing constantly the cheerful spring,
To foreign groves does her old music bring.

There are some counties in England where the bird is not found. It is abundant in Warwickshire, Gloucester and the Isle of Wight. It is not found in Scotland, Derbyshire or Yorkshire or Devon or Cornwall. Attempts to introduce it in those places have failed. The reason is said to be that its insect food does not exist there.

I utterly failed to hear the nightingale, although I was very close upon his track. On the night of the fifth of June at Freshwater, close to Tennyson's home, we were taken by a driver, between eleven and twelve at night, to two copses in one of which he said he had heard the nightingale the night before; and at the other they had been heard by somebody, from whom he got the information, within a very few days. But the silence was unbroken, notwithstanding our patience and the standing reward I had offered to anybody who would find one that I could hear. Two different nights shortly afterward, I was driven out several miles past groves where the bird was said to be heard frequently. Nothing came of it. May 29, at Gloucester, I rode with my friend, H. Y. J. Taylor, Esq., an accomplished antiquary, out into the country. We passed a hillside where he said he had heard the nightingale about eleven o'clock in the daytime the week before. Shakespeare says:

The nightingale, if she should sing by day,
When every goose is cackling, would be
No better a musician than the wren.

But the nightingale does sometimes sing by day. Mr. Taylor says that on the morning he spoke of the whole field seemed to be full of singing birds. There were larks and finches and linnets and thrushes, and I think other birds whose names I do not remember. But when the nightingale set up his song every other bird stopped. They seemed as much spellbound by the singing as he was, and Philomel had the field to himself till the song was over. It was as if

Jenny Lind had come into a country church when the rustic choir of boys and girls were performing.

The nightingale will sometimes sing out of season if his mate be killed, or if the nest with the eggs therein be destroyed.

He is not a shy bird. He comes out into the highway and will fly in and out of the hedges, sometimes following a traveller. And the note of one bird will, in the singing season, provoke the others, so that a dozen or twenty will sometimes be heard rivalling one another at night, making it impossible for the occupants of the farmhouses to sleep.

The superstition is well known that if a new-married man hear the cuckoo before he hear the nightingale in the spring, his married peace will be invaded by some stranger within the year. But if the nightingale be heard first he will be happy in his love. It is said that the young married swains in the country take great pains to hear the nightingale first. We all remember Milton's sonnet:

> O nightingale, that on yon bloomy Spray
> Warbl'est at eve, when all the woods are still,
> Thou with fresh hope the Lover's heart dost fill,
> While the jolly hours lead on propitious May,
> Thy liquid notes that close the eye of Day,
> First heard before the shallow Cuckoo's bill
> Portend success in love; O, if Jove's will
> Have linkt that amorous power to thy soft lay,
> Now timely sing, ere the rude bird of Hate
> Foretell my hopeless doom in some Grove nigh;
> As thou from year to year hast sung too late
> For my relief; yet hadst no reason why,
> Whether the Muse, or Love, call thee his mate,
> Both them I serve, and of their train am I.

I had a funny bit of evidence that this superstition is not entirely forgotten. A very beautiful young lady called upon us in London just as we were departing for the Isle of Wight. I told her of my great longing to hear the nightingale, and that I hoped to get a chance. She said that she had just come from one of her husband's country estates;

that she had not seen a nightingale or heard one this year, although they were very abundant there. She said she had seen a cuckoo, which came about the same time. I suppose she observed a look of amusement on my countenance, for she added quick as lightning, "But he didn't speak."

I made this year a delightful visit to Cambridge University. I was the guest of Dr. Butler, the Master of Trinity, and his accomplished wife, who had, before her marriage, beaten the young men of Cambridge in all of the examinations. Dr. Butler spoke very kindly of William Everett, with whom he had been contemporary at Cambridge. He told me that Edward Everett, when he received his degree at Oxford, was treated with great incivility by the throng of undergraduates, not because he was an American, but because he was a Unitarian. I told this story afterward to Mr. Charles Francis Adams. He confirmed it, and said that his father had refused the degree because he did not wish to expose himself to a like incivility.

I dined in the old hall of Trinity, and met many very eminent scholars. I saw across the room Mr. Myers, the author of the delightful essays, but did not have an opportunity to speak to him. I was introduced, among other gentlemen, to Aldus Wright, Vice or Deputy Master, eminent for his varied scholarship, and to Mr. Frazer, who had just published his admirable edition of Pausanias.

A great many years ago I heard a story from Richard H. Dana, illustrating the cautious and conservative fashions of Englishmen. He told me that when the Judges went to Cambridge for the Assizes they always lodged in the House of the Master of Trinity, which was a royal foundation, the claim being, that as they represented the King, they lodged there as of right. On the other hand the College claims that they are there as the guests of the College, and indebted to its hospitality solely for their lodging. When the Judges approach Cambridge, the Master of Trinity goes out to meet them, and expresses the hope that they will make their home at the College during their stay; to which the Judges reply that "They are coming." The Head of the College conducts them to the door. When it is reached, each party

bows and invites the other to go in. They go in, and the Judges stay until the Assize is over. This ceremony has gone on for four hundred years, and it never yet has been settled whether the Judges have a right in the Master's house, or only are there as guests and by courtesy. I suppose that in the United States both sides would fight that question until it was settled somehow. Each would say: "I am very willing to have the other there. But I want to know whether he has any right there." I asked about the truth of this story. Dr. Butler said it was true and seemed, if I understood him aright, to think the Judges' claim was a good one. Mr. Wright, the Deputy Master, to whom I also put the question, spoke of it with rather less respect.

CHAPTER XXIV

A REPUBLICAN PLATFORM

I HAVE had occasion several times to prepare the Republican platform for the State Convention. The last time I undertook the duty was in 1894. I was quite busy. I shrunk from the task and put it off until the time approached for the Convention, and it would not do to wait any longer. So I got up one morning and resolved that I would shut myself up in my library and not leave it until the platform was written. Accordingly I sat down after breakfast, with the door shut, and taking a pencil made a list of the topics about which I thought there should be a declaration in the platform.

I wrote each at the top of a separate page on a scratch-block, intending to fill them out in the usual somewhat grandiloquent fashion which seems to belong to that kind of literature. I supposed I had a day's work before me.

It suddenly occurred to me: Why not take these headings just as they are, and make a platform of them, leaving the Convention or the public to amplify as they may think fit afterward. Accordingly I tore out the leaves from the scratch-block, and handed them to a secretary to be put into type. The whole proceeding did not take fifteen minutes.

The sense of infinite relief that the Convention had when, after listening for a moment or two, they found I was getting over what they expected as a rather tedious job, with great rapidity, was delightful to behold. I do not believe there was ever a political platform received in this country with such approval, certainly by men who listened to it, as that:

PLATFORM

"The principles of the Republicans of Massachusetts are as well known as the Commonwealth itself; well known as the Republic; well known as Liberty; well known as Justice.

Chief among them are:

An equal share in Government for every citizen.

Best possible wages for every workman.

The American market for American labor.

Every dollar paid by the Government, both the gold and the silver dollars of the Constitution, and their paper representatives, honest and unchanging in value and equal to every other.

Better immigration laws.

Better naturalization laws.

No tramp, Anarchist, criminal or pauper to be let in, so that citizenship shall not be stained or polluted.

Sympathy with Liberty and Republican government at home and abroad.

Americanism everywhere.

The flag never lowered or dishonored.

No surrender in Samoa.

No barbarous Queen beheading men in Hawaii.

No lynching.

No punishment without trial.

Faith kept with the pensioner.

No deserving old soldier in the poorhouse.

The suppression of dram drinking and dram selling.

A school at the public charge open to all the children, and free from partisan or sectarian control.

No distinction of birth or religious creed in the rights of American citizenship.

Devotion paramount and supreme to the country and to the flag.

Clean politics.

Pure administration.

No lobby.

Reform of old abuses.

Leadership along loftier paths.

Minds ever open to the sunlight and the morning, ever open to new truth and new duty as the new years bring their lessons."

I ought to explain one phrase in this platform, which I have since much regretted. That is the phrase "No bar-

barous Queen beheading men in Hawaii.'' It was currently reported in the press that the Queen of Hawaii, Liliuokalani, was a semi-barbarous person, and that when Mr. Blount, Mr. Cleveland's Commissioner, proposed to restore her government and said that amnesty should be extended to all persons who had taken part in the revolution, she had said with great indignation, ''What, is no one to be beheaded?'' and that upon that answer Mr. Blount and Mr. Cleveland had abandoned any further purpose of using the power of the United States to bring the monarchy back again. That, so far as I knew, had never been contradicted and had obtained general belief.

I ought not to have accepted the story without investigation. I learned afterward, from undoubted authority, that the Queen is an excellent Christian woman; that she has done her best to reconcile her subjects of her own race to the new order of things; that she thinks it is better for them to be under the power of the United States than under that of any other country, and that they could not have escaped being subjected to some other country if we had not taken them; and that she expended her scanty income in educating and caring for the children of the persons who were about her court who had lost their own resources by the revolution. I have taken occasion, more than once, to express, in the Senate, my respect for her, and my regret for this mistake.

CHAPTER XXV

OFFICIAL SALARIES

When I was in the House the salaries of the Judges of the Supreme Court of the United States were raised to ten thousand dollars a year, and a provision for a retiring pension, to be continued for life to such of them as became seventy years old, and had served ten years on the Bench, was enacted.

But it is always very difficult indeed to get salaries raised, especially the salaries of Judges. That it was accomplished then was due largely to the sagacity and skill of Mr. Armstrong of Pennsylvania. He was a very sensible and excellent Representative. His service, like that of many of the best men from Pennsylvania, was too short for the public good. I had very little to do with it myself, except that I talked the matter over a good deal with Mr. Armstrong, who was a friend of mine, and heartily supported it.

After I entered the Senate, however, I undertook to get through a bill for raising the salaries of the Judges of the United States District Courts. The District Judges were expected to be learned lawyers of high reputation and character, and large experience. Very important matters indeed are within the jurisdiction of the District Courts. They would have to deal with prize causes, if a war were to break out. In that case the reputation of the tribunals of the United States throughout the world would depend largely on them. They have also had to do a large part of the work of the Circuit Courts, especially since the establishment of the Circuit Courts of Appeals, as much of the time of the Circuit Judges is required in attendance there.

I had great difficulty in getting the measure through. But at last I was successful in getting the salaries, which had

ranged from $1,500 to $4,000 in different districts of the country, made uniform and raised to $5,000 a year.

Later I made an attempt to have the salaries of the Judges of the Supreme Courts of the United States increased. My desire was to have the salary of the Associate Judges fixed at $15,000, being an increase of fifty per cent., that of the Chief Justice to be $500 more. I met with great difficulty, but at last, in the winter of 1903, I succeeded in getting through a measure, which I had previously reported, which increased the salary of the Associate Judges to $12,500, and that of the Chief Justice to $13,000. The same measure increased the salaries of the District Judges from $5,000 to $6,000, and that of the Circuit Judges from $6,000 to $7,000 a year.

The salary of Senators and Representatives is shamefully small. This is a great injustice, not only to members of the two Houses, but it is a great public injury, because the country cannot command the service of able men in the prime of life, unless they have already acquired large fortunes. It cannot be expected that a lawyer making from $25,000 to $50,000 a year, or a man engaged in business, whose annual income perhaps far exceeds that amount, will leave it for $5,000 a year. In that way he is compelled not only to live frugally himself, but what is more disagreeable still, to subject his household to live in the humblest style in a costly and fashionable city, into which wealthy persons are coming from all parts of the country.

The members of Congress have a great many demands upon them, which they cannot resist. So a Senator or Representative with $5,000 a year, living in Washington a part of the year and at home the other part, cannot maintain his family as well as an ordinary mechanic or salaried man who gets $2,500 or $3,000 a year, and spends all his time in one place.

The English aristocracy understand this pretty well. They give no salary at all to the members of their House of Commons. The result is that the poor people, the working people and people in ordinary life, cannot get persons

to represent them, from their own class. That will soon be true in this country, if we do not make a change. I suppose nearly every member of either House of Congress will tell you in private that he thinks the salary ought to be raised. But the poor men will not vote for it, because they think the example will be unpopular, and the rich men do not care about it.

CHAPTER XXVI

PROPRIETY IN DEBATE

The race of demagogues we have always with us. They have existed in every government from Cleon and the Sausage-maker. They command votes and seem to delight popular and legislative assemblies. But they rarely get very far in public favor. The men to whom the American people gives its respect, and whom it is willing to trust in the great places of power, are intelligent men of propriety, dignity and sobriety.

We often witness and perhaps are tempted to envy the applause which many public speakers get by buffoonery, by rough wit, by coarse personality, by appeal to vulgar passions. We are apt to think that grave and serious reasonings are lost on the audiences that receive them, half asleep, as if listening to a tedious sermon, and who come to life again when the stump speaker takes the platform. But it will be a great mistake to think that the American people do not estimate such things at their true value. When they come to take serious action, they prefer to get their inspiration from the church or the college and not from the circus. Uncle Sam likes to be amused. But Uncle Sam is a gentleman. In the spring of 1869, when I first took my seat in Congress, General Butler was in the House. He was perhaps as widely known to the country as any man in it except President Grant. He used to get up some scene of quarrel or buffoonery nearly every morning session. His name was found every day in the head-lines of the newspapers. I said to General Banks one day after the adjournment: "Don't you think it is quite likely that he will be the next President of the United States?" "Never," said General Banks, in his somewhat grandiloquent fashion. "Why,"

said I, "don't you see that the papers all over the country are full of him every morning? People seem to be reading about nobody else. Wherever he goes, the crowds throng after him. Nobody else gets such applause, not even Grant himself."

"Mr. Hoar," replied General Banks, "when I came down to the House this morning, there was a fight between two monkeys on Pennsylvania Avenue. There was an enormous crowd, shouting and laughing and cheering. They would have paid very little attention to you or me. But when they come to elect a President of the United States, they won't take either monkey."

The men who possess the capacity for coarse wit and rough repartee, and who indulge it, seldom get very far in public favor. No President of the United States has had it. No Judge of the Supreme Court has had it, no Speaker of the House of Representatives, and, with scarcely an exception, no eminent Senator.

CHAPTER XXVII

THE FISH-BALL LETTER

In August, 1890, the Pittsburg *Post,* a Democratic paper, made a savage attack on me. He attributed to me some very foolish remark and declared that I lived on terrapin and champagne; that I had been an inveterate office-seeker all my life; and that I had never done a stroke of useful work. Commonly it is wise to let such attacks go without notice. To notice them seriously generally does more harm than good to the party attacked. But I was a good deal annoyed by the attack, and thought I would make a good-natured and sportive reply to it, instead of taking it seriously. So I sent the editor the following letter, which was copied quite extensively throughout the country, North and South; and I believe put an end, for the rest of my life, to the particular charges he had made:

United States Senate,
Washington, D. C., Aug. 10, 1890.

To the Editor of the Pittsburg Post:

My Dear Man: Somebody has sent me a copy of your paper containing an article of which you do me the honor to make me the subject. What can have put such an extravagant yarn into the head of so amiable and good-natured a fellow? I never said the thing which you attribute to me in any interview, caucus or anywhere else. I never inherited any wealth or had any. My father was a lawyer in very large practice for his day, but he was a very generous and liberal man and never put much value upon money. My share of his estate was about $10,500. All the income-producing property I have in the world, or ever had, yields a little less than $1,800 a year; $800 of that is from a life estate and the other thou-

sand comes from stock in a corporation which has only paid dividends for the last two or three years, and which I am very much afraid will pay no dividend, or much smaller ones, after two or three years to come. With that exception the house where I live, with its contents, with about four acres of land, constitute my whole worldly possessions, except two or three vacant lots, which would not bring me $5,000 all told. I could not sell them now for enough to pay my debts. I have been in my day an extravagant collector of books, and have a library which you would like to see and which I would like to show you. Now, as to office-holding and working. I think there are few men on this continent who have put so much hard work into life as I have. I went one winter to the Massachusetts House of Representatives, when I was twenty-five years old, and one winter to the Massachusetts Senate, when I was thirty years old. The pay was two dollars a day at that time. I was nominated on both occasions, much to my surprise, and on both occasions declined a renomination. I afterward twice refused a nomination for Mayor of my city, have twice refused a seat on the Supreme Bench of Massachusetts, and refused for years to go to Congress when the opportunity was in my power. I was at last broken down with overwork, and went to Europe for my health. During my absence the arrangements were made for my nomination to Congress, from which, when I got home, I could not well escape. The result is I have been here twenty years as Representative and Senator, the whole time getting a little poorer year by year. If you think I have not made a good one, you have my full authority for saying anywhere that I entirely agree with you. During all this time I have never been able to hire a house in Washington. My wife and I have experienced the varying fortune of Washington boarding houses, sometimes very comfortable, and a good deal of the time living in a fashion to which no mechanic earning two dollars a day would subject his household. Your "terrapin" is all in my eye, very little in my mouth. The chief carnal luxury of my life is in breakfasting every Sunday morning with an orthodox friend, a lady who has a rare gift for making fish-balls and

coffee. You unfortunate and benighted Pennsylvanians can never know the exquisite flavor of the codfish, salted, made into balls and eaten on a Sunday morning by a person whose theology is sound, and who believes in all the five points of Calvinism. I am myself but an unworthy heretic, but I am of Puritan stock, of the seventh generation, and there is vouchsafed to me, also, some share of that ecstasy and a dim glimpse of that beatific vision. Be assured, my benighted Pennsylvania friend, that in that hour when the week begins, all the terrapin of Philadelphia or Baltimore and all the soft-shelled crabs of the Atlantic shore might pull at my trousers legs and thrust themselves on my notice in vain.

I am faithfully,

GEO. F. HOAR.

CHAPTER XXVIII

THE BIRD PETITION

Before the year 1897 I had become very much alarmed at the prospect of the total extinction of our song-birds. The Bobolink seemed to be disappearing from the fields in Massachusetts, the beautiful Summer Red Bird had become extinct, and the Oriole and the Scarlet Tanager had almost disappeared. Many varieties of song-birds which were familiar to my own boyhood were unknown to my children. The same thing seems to be going on in other countries. The famous Italian novelist, Ouida, contributed an article in the *North American Review* a few years ago in which she describes the extermination of the Nightingale in Italy. The Director of the Central Park, in one of his Reports, stated that within fifteen or twenty years the song-birds of the State of New York had diminished forty-five per cent.

One afternoon in the spring of 1897, Governor Claflin called on me at my Committee Room in the Capitol and told me a lady had just visited his daughter at her rooms who had on her head eleven egrets. These egrets are said to come from the female White Heron, a beautiful bird abounding in Florida. They are a sort of bridal ornament, growing out on the head of the female at pairing time and perishing and dropping off after the brood is reared. So the ornament on the horrible woman's head had cost the lives of eleven of these beautiful birds and very likely in every case the lives of a brood of young ones.

When I went home I sat down after dinner and wrote with a pencil the following petition.

"To the Great and General Court of the Commonwealth of Massachusetts:

"We, the song-birds of Massachusetts and their playfellows, make this our humble petition:

"We know more about you than you think we do. We know how good you are. We have hopped about the roofs and looked in at the windows of the houses you have built for poor and sick and hungry people and little lame and deaf and blind children. We have built our nests in the trees and sung many a song as we flew about the gardens and parks you have made so beautiful for your own children, especially your poor children, to play in.

"Every year we fly a great way over the country, keeping all the time where the sun is bright and warm; and we know that whenever you do anything, other people all over the great land between the seas and the great lakes find it out, and pretty soon will try to do the same thing. We know; we know. We are Americans just as you are. Some of us, like some of you, came from across the great sea, but most of the birds like us have lived here a long while; and birds like us welcomed your fathers when they came here many years ago. Our fathers and mothers have always done their best to please your fathers and mothers.

"Now we have a sad story to tell you. Thoughtless or bad people are trying to destroy us. They kill us because our feathers are beautiful. Even pretty and sweet girls, who we should think would be our best friends, kill our brothers and children so that they may wear plumage on their hats. Sometimes people kill us from mere wantonness. Cruel boys destroy our nests and steal our eggs and our young ones. People with guns and snares lie in wait to kill us, as if the place for a bird were not in the sky, alive, but in a shop window or under a glass case. If this goes on much longer, all your song-birds will be gone. Already, we are told, in some other countries that used to be full of birds, they are almost gone. Even the nightingales are being all killed in Italy.

"Now we humbly pray that you will stop all this, and will save us from this sad fate. You have already made a law that no one shall kill a harmless song-bird or destroy our nests or our eggs. Will you please to make another that no one shall wear our feathers, so that no one will kill us to get them? We want them all ourselves. Your pretty girls are

pretty enough without them. We are told that it is as easy for you to do it as for Blackbird to whistle.

"If you will, we know how to pay you a hundred times over. We will teach your children to keep themselves clean and neat. We will show them how to live together in peace and love and to agree as we do in our nests. We will build pretty houses which you will like to see. We will play about your gardens and flower beds,—ourselves like flowers on wings,—without any cost to you. We will destroy the wicked insects and worms that spoil your cherries and currants and plums and apples and roses. We will give you our best songs and make the spring more beautiful and the summer sweeter to you. Every June morning when you go out into the field, Oriole and Blackbird and Bobolink will fly after you and make the day more delightful to you; and when you go home tired at sundown, Vesper Sparrow will tell you how grateful we are. When you sit on your porch after dark, Fife Bird and Hermit Thrush and Wood Thrush will sing to you; and even Whip-poor-will will cheer up a little. We know where we are safe. In a little while all the birds will come to live in Massachusetts again, and everybody who loves music will like to make a summer home with you."

I thought it might, perhaps, strike the Legislature of Massachusetts and the public more impressively than a sober argument. The whole thing took only fifteen or twenty minutes. The petition was signed by all the song-birds of Massachusetts, and illustrated by Miss Ellen Day Hale with the portraits of the signers. It was presented to the Massachusetts Senate by the Honorable A. S. Roe, Senator from the Worcester District. The Legislature acted upon it and passed the following Statute:

"Whoever has in his possession the body or feathers of any bird whose taking or killing is prohibited by section four of chapter two hundred and seventy-six of the acts of the year eighteen hundred and eighty-six, or wears such feathers for the purpose of dress or ornament, shall be pun-

ished as provided in said section: *provided* that this act shall not be construed to prohibit persons having the certificate provided for in said sections from taking or killing such birds; and *provided, further,* that this act shall not apply to Natural History Associations, or to the proprietors of museums, or other collections for scientific purposes.

"Approved June 11, 1897."

This Statute was copied in several other States. I think the petition helped a good deal the healthy reaction which, owing largely to the efforts of humane societies and Natural History Associations and especially of some very accomplished ladies, has arrested the destruction of these beautiful ornaments of our woods and fields and gardens, "our fellow pilgrims on the journey of life," who have so much of humanity in them and who, like us, have their appointed tasks set to them by the great Creator.

CHAPTER XXIX

THE A. P. A. CONTROVERSY

One very unreasonable, yet very natural excitement has stirred deeply the American people on several occasions in our history. It came to us by lawful inheritance from our English and Puritan ancestors. That is the bitter and almost superstitious dread of the Catholics, which has resulted more than once in riots and crimes, and more than once in the attempt to exclude them from political power in the country. This has sometimes taken the form of a crusade against all foreigners. But religious prejudice against the Catholics has been its chief inspiration.

I just said that this feeling, though absolutely unjustifiable, was yet quite natural, and that it came to us by lawful inheritance. I have always resisted it and denounced it to the utmost of my power. My father was a Unitarian. I was bred in that most liberal of all liberal faiths. But I have believed that the way to encounter bigotry is by liberality. If any man try to deprive you of your absolute rights, begin to defend yourself by giving him his own. Human nature, certainly American human nature, will never, in my opinion, long hold out against that method of dealing.

Our people, so far as they are of English descent, learned from their fathers the stories of Catholic persecution and of the fires of Smithfield. Fox's "Book of Martyrs," one of the few books in the Puritan libraries, was, even down to the time of my youth, reverently preserved and read in the New England farmhouses.

So it was believed that it was only the want of power that prevented the Catholics from renewing the fires of Smithfield and the terrors of the Inquisition. It was be-

lieved that the infallibility and supremacy of the Pope bound the Catholic citizen to yield unquestioning obedience to the Catholic clergy in matters civil and political, as well as spiritual. There was a natural and very strong dread of the Confessional.

This feeling was intensified by the fact of which it was partly the cause, that when the Irish-Catholics first came over they voted in solid body, led often by their clergy, for the Democratic Party, which was in the minority in the New England States, especially in Massachusetts. England down to a very recent time disqualified the Catholics from civil office.

Our people forgot that the religious persecution, of which they cherished the bitter memory, was the result of the spirit of the age, and not of one form of religious faith. They forgot that the English Protestants not only retaliated on the Catholics when they got into power, but that the Bishops from whose fury, as John Milton said, our own Pilgrim fathers fled, were Protestant Bishops and not Catholic. They forgot the eight hundred years during which Ireland had been under the heel of England, and the terrible history so well told by that most English of Englishmen, and Protestant of Protestants, Lord Macaulay.

"The Irish Roman Catholics were permitted to live, to be fruitful, to replenish the earth; but they were doomed to be what the Helots were in Sparta, what the Greeks were under the Ottoman, what the blacks now are at New York. Every man of the subject caste was strictly excluded from any public trust. Take what path he might in life, he was crossed at every step by some vexatious restriction. It was only by being obscure and inactive, that he could, on his native soil, be safe. If he aspired to be powerful and honoured, he must begin by being an exile. If he pined for military glory, he might gain a cross or perhaps a Marshal's staff in the armies of France or Austria. If his vocation was to politics, he might distinguish himself in the diplomacy of Italy or Spain. But at home he was a mere Gibeonite, a hewer of wood and a drawer of water. The statute

book of Ireland was filled with enactments which furnish to the Roman Catholics but too good a ground for recriminating on us when we talk of the barbarities of Bonner and Gardiner; and the harshness of those odious laws was aggravated by a more odious administration. For, bad as the legislators were, the magistrates were worse still. In those evil times originated that most unhappy hostility between landlord and tenant, which is one of the peculiar curses of Ireland. Oppression and turbulence reciprocally generated each other. The combination of rustic tyrants was resisted by gangs of rustic banditti. Courts of law and juries existed only for the benefit of the dominant sect. Those priests who were revered by millions as their natural advisers and guardians, as the only authorised expositors of Christian truth, as the only authorised dispensers of the Christian sacraments, were treated by the squires and squireens of the ruling faction as no good-natured man would treat the vilest beggar."

When I came into political life shortly after 1848, I found this anti-Catholic feeling most intense. The Catholics in Massachusetts were, in general, in a very humble class. The immigration, which had well begun before the great Irish Famine, was increased very much by that terrible calamity. The Irishmen were glad to build our railroads at sixty cents a day, dwelling in wretched shanties, and living on very coarse fare. They had brought with them the habit of drinking whiskey, comparatively harmless in their native climate—though bad enough there—but destructive in New England. So they contributed very largely to the statistics of crime and disorder.

Even then they gave an example—from which all mankind might take a lesson—of many admirable qualities. They had a most pathetic and touching affection for the Old Country. They exhibited an incomparable generosity toward the kindred they had left behind. From their scanty earnings, Edward Everett, a high authority, estimates that there were sent twenty millions of dollars in four years to their parents and kindred.

There was some jealousy on the part of our working people, especially the men and women employed in large manufacturing establishments, lest the Irish, by working at cheaper wages, would drive them out of employment. But the Irishman soon learned to demand all the wages he could get. The accession of the Irish laborer increased largely the productive forces of the State. So there was more wealth created, of which the better educated and shrewder Yankee got the larger share. By the bringing in of a lower class of labor he was elevated to a higher place, but never driven out of work. The prejudice of which I have spoken showed itself in some terrible Protestant riots in New Orleans and in Baltimore, and in the burning of the Catholic Convent at Charlestown.

There was also a strong feeling that the compact body of Catholics, always voting for one political party was a danger to the public security. Of course this feeling manifested itself in the Whig Party, for whose adversary the solid Irish-Catholic vote was cast. As early as 1844, after the defeat of Mr. Clay, Mr. Webster made a suggestion—I do not know where it is recorded now, but I was informed of it on good authority at about the time he made it—that there must be some public combination with a view to resist the influence of our foreign element in our politics.

But there was no political movement on any considerable scale until 1854. In that year there was a very dangerous crusade which came very near National success, and which got control of several States.

In the fall of 1857 the Republican Party elected its first Governor. The slavery question was still very prominent, and the people were deeply stirred by the attempt to repeal the Missouri Compromise. So in that year, under the leadership of Nathaniel P. Banks, Gardner, the Know-Nothing Governor, was defeated, and from that time the strength of Know-Nothingism was at an end. I was elected to the Senate in the fall of 1856 as the Republican candidate from the county of Worcester over the Know-Nothing and Democratic candidates.

It is a remarkable fact that of the men known to join the Know-Nothing Party, no man, unless he were exceedingly young and obscure when he did it, ever maintained or regained the public confidence afterward, with the exception of Henry Wilson, Anson Burlingame and Nathaniel P. Banks. These men all left it after the first year. Wilson and Burlingame denounced it with all the vigor at their command, and Banks led the forces of the Republican Party to its overthrow.

I ought to say, however, of this movement and of the A. P. A. movement, as it is called, of which I am now to speak, that I do not think the leaders in general shared the bitter and proscriptive feeling to which they appealed. The secret organization, founded on religious prejudice, or on race prejudice, is a good instrument to advance the political fortunes of men who could not gain advancement in an established political organization. So a great many men are active and busy in such organizations, who would be equally active and busy in movements founded on precisely the opposite doctrines, if they could as well find their advancement in them. Yet, as I have said, the prejudice which lay at the bottom of this movement was very powerful, very sincere, and not unnatural.

Secret societies were formed all over the country. It seemed not unlikely that the surprise of 1854 would be repeated, and that the great Republican party, which had done so much for civil liberty, would either be broken to pieces or would be brought to take an attitude totally inconsistent with religious liberty.

The organization, calling itself the American Protective Association, but known popularly as the A. P. A., had its branches all over the North. Its members met in secret, selected their candidates in secret—generally excluding all men who were not known to sympathize with them—and then attended the Republican caucuses to support candidates in whose selection members of that political party who were not in their secret councils had no share. Ambitious candidates for office did not like to encounter such a powerful enmity. They in many cases temporized or coquetted with

the A. P. A., if they did not profess to approve its doctrine. So far as I know, no prominent Republican in any part of the country put himself publicly on record as attacking this vicious brotherhood. Many men who did not agree with it were, doubtless, so strong in the public esteem that they were not attacked.

That was the condition of things when, in the early summer of 1895, I delivered an address at the opening of the Summer School of Clark University in which I spoke briefly, but in very strong terms, in condemnation of the secrecy and of the proscriptive principles of this political organization. I declared: "I have no patience or tolerance with the spirit which would excite religious strife. It is as much out of place as the witchcraft delusion or the fires of Smithfield." I added: "This Nation is a composite. It is made up of many streams, of the twisting and winding of many bands. The quality, hope and destiny of our land is expressed in the phrase of our Fathers, 'E Pluribus Unum'—of many, one—of many States, one Nation—of many races, one people—of many creeds, one faith—of many bended knees, one family of God." A little later I went with the Massachusetts Club, of which I was a member, to an outing at Newport. There, briefly but still more emphatically, I called upon the people not to revive the bitter memories of ancient, social and religious strife.

These two speeches excited the indignation of the leaders of this organization. A gentleman named Evans, I believe born in England, took up the cudgels. He was supported by many worthy clergymen and a good many newspapers which had been established to support the doctrine of the A. P. A. organization. Mr. Evans, if I am right in my memory, claimed that he was not a member of the organization. But he stood up for it stanchly in two letters to me, in which he very severely denounced what I had said, and pointed out the wicked behavior of some Catholic priests to whom he referred. He said he had looked up to me as he formerly did to Charles Sumner and William H. Seward; that my course would tend as absolutely to the breaking up of the Republican Party as Daniel Webster's speech did to

the breaking up of the old Whig Party, and that I had rung my own death knell; that the one mistake Wesley made when he called slavery "the sum of all villainies" was that he did not except the Roman Catholic Church. He added that there were at least three million members of these patriotic orders, constituting at least three fifths of the Republican Party, and that their membership was being added to daily. Mr. Evans also said, what was absolutely without foundation, that I had said, "We need a Father Confessor."

That gave me my opportunity. I answered with the following letter in which I stated my own doctrine as vigorously and clearly as I knew how.

Worcester, Aug. 5, 1895.

T. C. Evans, Esq.:

My Dear Sir—One of the great evils, though by no means the greatest evil of secret political societies, is that foolish and extravagant statements about men who don't agree with them get circulated without opportunity for contradiction or explanation. You seem to be a well-meaning and intelligent man; yet I am amazed that any well-meaning and intelligent man should believe such stuff as you repeat in your letter of August 3. I never said, thought or dreamed what you impute to me. I don't believe there ever was any report in the Worcester *Telegram* to that effect. Certainly there is none in the report of what I said in the summer school at Clark University the morning after, and there is no such statement in any of the other Worcester newspapers. I never anywhere expressed the idea that there should be a confessional or that there was any need of a Father Confessor, or that I wanted to see something in our Protestant churches like the Father Confessor in the Catholic. The whole thing is a miserable lie and invention made out of whole cloth. The language, which you quote, about an attempt to recall on one side, "the cruelties of the Catholic Church and frighten our women and children with horrid hobgoblins," is not my language. That does appear in the *Telegram*. But it is the reporter's statement of what he understood my idea to be in his own language. What I said

was: "We are confronted with a public danger which comes from an attempt to rouse the old feelings of the dark ages, and which ought to have ended with them, between men who have different forms of faith. It is an attempt to recall on one side the cruelties of the Catholic Church and to frighten old women of both sexes, and, on the other side, to band the men of the Catholic Church together for political action. Both these attempts will fail."

There is no more zealous believer in the principles of the New England Puritans, and no more zealous advocate of them, than I am. There is not a man in Massachusetts who has more at heart the welfare and perpetuity of our system of free common schools than I have. I was the first person, so far as I know, who called public attention to the fact that they were in danger, in any formal way. I drew and had put into the platform of the Republican State Convention the following resolution: "The Republican Party ever has maintained and ever will maintain and defend, the common schools of Massachusetts as the very citadel of their liberties and the source of her glory, greatness and happiness. They shall be kept open to all the children and free from all partisan and sectarian control."

This doctrine I stand by. And I stand by the further doctrine, as I stated at length in my address at Clark University, that the whole resources of the Commonwealth are pledged to their support, and that that is the bottom mortgage on every dollar of our property, and that no person can escape or be allowed to escape that responsibility. The difference between you and me is a difference of method. I want to get the 700,000 Catholics in Massachusetts on our side. I want them to send their children to the public schools, to pay their share of the cost, and when their young men and women are suitable, are intelligent, liberal persons, attached to the school system, I want some of them to be employed as teachers. I don't wish to exclude them from my political support when they are Republicans and agree with me in other matters, because of their religious faith. Nor do I wish to exclude them from being public school teachers, if they will keep their particular religious tenets

out of their instruction, because of their religious faith, any more than I would have excluded Phil Sheridan from his office in the army, or would have refused to support him for any public office, if he had been nominated for it. Further, I want to state and advocate my opinions in the face of day; and you may be sure that I shall do this without flinching before anybody's threats or anybody's displeasure or indignation. You, on the other hand, I understand, want to go into a cellar to declare your principles. You want to join an association whose members are ashamed to confess they belong to it; many of whom, without apparently forfeiting the respect of their fellows, lie about their membership in it when they are asked about it. You want to mass together the whole Catholic population of Massachusetts to the support of their extreme and wrong-headed priests, if any such can be found.

The difference between us is a difference of methods in accomplishing the same result. I think your method would overthrow the common school system, would overthrow the Republican Party, and would end by massing together all the Catholic voters, as proscription always does mass men together, to increase and strengthen that political power which you profess so much to dread.

When O'Neill, the young Catholic soldier of Worcester, lay dying, he said: "Write to my dear mother and tell her I die for my country. I wish I had two lives to give. Let the Union flag be wrapped about me and a fold of it laid under my head." I feel proud that God gave me such a man to be my countryman and townsman. I have very little respect for the Americanism that is not moved and stirred by such a story. If O'Neill had left a daughter who had her father's spirit, I would be willing to trust my child or grandchild to her instruction in secular education in the public school, even if the father had kissed with his last breath the cross on which the Saviour died, or even if the parting soul had received comfort from the lips of Thomas Conaty or John Power or John Ireland or Archbishop Williams.

When John Boyle O'Reilly, the Catholic poet, sang the praises of the Pilgrims at Plymouth, in that noblest of odes,

when he quoted in his preface from William Bradford and John Robinson and Robert Cushman, I was glad to hear what he said, especially when he quoted from the lips of the clergyman Robinson: "I charge you before God that you follow me no further than you have seen me follow the Lord Jesus Christ. If God reveal anything to you by any other instrument of His, be as ready to receive it as ever you were to receive any truth by my ministry, for I am verily persuaded, I am very confident, the Lord hath more truths yet to break forth out of His Holy Word." I liked what he said. If I understand your former letter correctly, you didn't. There is where we differ. When John Boyle O'Reilly said, declaring the very spirit of New England Puritanism, and speaking of religious faith, " the one sacred revolution is change of mind," when he spoke these noble lines:

> So held they firm, the Fathers aye to be,
> From Home to Holland, Holland to the sea—
> Pilgrims for manhood, in their little ship,
> Hope in each heart, and prayer on every lip.
> Apart from all—unique, unworldly, true,
> Selected grain to sow the earth anew;
> A winnowed part—a saving remnant they;
> Dreamers who work; adventurers who pray!
> We know them by the exile that was theirs;
> Their justice, faith and fortitude attest.

When he further said:

> On the wintry main
> God flings their lives as farmers scatter grain,
> His breath propels the winged seed afloat;
> His tempests swerve to spare the fragile boat;
> Here on this rock and on this sterile soil,
> Began the kingdom, not of kings, but men;
> Began the making of the world again,
> Their primal code of liberty, their rules
> Of civil right; their churches, courts and schools;
> Their freedom's very secret here laid down—
> The spring of government is the little town!

> On their strong lines, we base our social health—
> The man—the home—the town—the Commonwealth!
> Their saintly Robinson was left behind
> To teach by gentle memory; to shame
> The bigot spirit and the word of flame;
> To write dear mercy in the Pilgrim's law;
> To lead to that wide faith his soul foresaw—

I liked what he said. If I understand your former letter, you didn't. You don't want a man who differs from you saying or thinking such things. I want the whole 700,000 Catholics of Massachusetts to believe what John Boyle O'Reilly believed, and to love and reverence the Puritan founders of Massachusetts as he did, and I think my way is the way to make them do it. You don't, if I understand you. You think the way to make good citizens and good men of them and to attract them to Protestantism, is to exclude them, their sons and daughters, from all public employment, and to go yourself into a dark cellar and curse at them through the gratings of the windows.

I stated my religious faith and my ideas of the relation of our religious denominations to each other, in an address I delivered at Saratoga last year, of which I send you a copy, and which I hope, as you have kindly volunteered to send me so much of your opinion, you may perhaps be willing to read. It doesn't become me to say anything about it myself. I am deeply sensible of its imperfections. It fails to do justice to what is in my own heart. But perhaps I may be permitted to say that within a few weeks after it was delivered, an eminent Catholic clergyman sent me a message expressing his delight in it. The most famous Episcopal Bishop in the country said to a friend of mine that he had read it with great pleasure and that it sounded to him like the old times. A Baptist minister, bearing one of the most distinguished names in the country, wrote me a letter, in which he said, as he read it, "At every sentence, I said to myself, Amen, Amen." An eminent Orthodox minister, Doctor of Divinity, read it aloud to his parish, in full, instead of his Sunday's sermon. And a very excellent and able

Methodist minister wrote to me and said, "If that is Unitarianism, I am afraid I am a Unitarian." I think the time has come to throw down the walls between Christians and not to build new ones. I think the time has come to inculcate harmony and good will between all American citizens, especially between all citizens of the old Commonwealth of Massachusetts.

You quote some expressions which you attribute to Catholic clergymen. If you don't get any nearer right in quoting them than you do in quoting me, I don't believe that they ever said any such thing. If they have, they never will persuade any considerable number of Catholic laity in this country, in this nineteenth century, to follow them. You may perhaps induce the Catholic young men and women of Massachusetts to believe there is something in what those clergymen say. They never will succeed in doing it themselves.

I don't think you will succeed in getting any considerable number of the people of this country, who are able to read and write, or to count ten on their fingers, to believe that, as I am entering my seventieth year, I am actuated by any personal ambition, in the counsel which I give my fellow citizens. I don't think you will get them to believe that, if I were so actuated, I should begin by saying anything which would estrange a considerable number of the Protestant Republican citizens of Massachusetts. I don't think you will convince them that I am indifferent to the good will of so large a portion of the American people as are said to be enlisted in the ranks of the secret society to which you refer. If you know as little of your Catholic fellow citizens as you know of me, you have a good deal as yet to learn of the subject of which you are speaking.

On the other hand, you may be quite sure I should be unwilling to do injustice to any of my fellow citizens. They will hardly need be assured that I would not lightly or unnecessarily incur their disapprobation. But you may perhaps think it pardonable that I should not be thoroughly informed as to the principles, motives or conduct of a secret society. As you have undertaken the duty of giving me information, will you kindly answer for me the following questions:

1st. Is the organization to which you refer a secret organization? Are its discussions in the face of day? Do the persons whose political errors they especially oppose have an opportunity to know their purposes and to be convinced by their arguments? If the organization be in any respect secret, why is it deemed necessary to maintain such secrecy in the United States of America and at the close of the nineteenth century?

2d. Is it the custom of many persons who belong to it to deny, when inquired of, that they are members of such an association? And if this be true, does such a falsehood cost them the respect and friendship of their associates or diminish their influence in the order?

3d. Do members of the association, after joining it, retain their membership in other political parties? Do they agree together upon candidates for office or delegates to conventions to nominate officers and then go into their party caucuses to support such delegates agreed upon in secret, without consultation with their political brethren? If that be true, does it seem to you that that course is honest?

4th. Do you understand that any considerable number of Catholic laymen, in this country, accept the interpretation which you put upon the fifteen articles which you quote as principles of the Roman Catholic Church? Is it not true that that interpretation is absolutely rejected by the Catholic laity in general, and that they affirm for themselves as absolute independence of the Pope or of the clergy in all secular matters as you or I claim for ourselves in regard to Protestant clergymen?

5th. Are not Italy and France, two Catholic countries, to-day as absolutely free from any temporal power or influence of the Pope or the Catholic clergy as is Massachusetts?

6th. I have had sent me a little leaflet, purporting to be the principles of the American Protective Association, which you doubtless have seen. When you say, in your third article, that the American Protective Association is "opposed to the holding of offices in the National, State or

municipal Government, by any subject or supporter of such ecclesiastical power,'' and in your fifth article, that you ''protest against the employment of the subjects of any un-American ecclesiastical power as officers or teachers of our public schools,'' do you mean, or no, that no Catholic shall hold such National or State or municipal office, and that no Catholic shall be a teacher in a public school? You don't answer this question by quoting the language of church officials in by-gone days or the intemperate language of some priests in recent times. It is a practical question. Do you or do you not mean to exclude from such office and from such employment as teachers the bulk of the Catholic population of Massachusetts?

7th. Is it your opinion that General Philip H. Sheridan, were he living, would be unfit to hold civil or military office in this country? Or that his daughter, if she entertained the religious belief of her father, should be disqualified from being a teacher in a public school?

I have no pride of opinion. I shall be very glad to revise any opinion of mine and, as you state it, I shall be very glad to ''know better in the future,'' if you will kindly enlighten me.

You and I, as I have said, have the same object at heart. We desire, above all things, the maintenance of the principles of civil and religious liberty; and above all other instrumentalities to that end, the maintenance of our common school system, at the public charge, open to all the children and free from partisan or sectarian control. If you and I differ, it is only as to what is the best means of accomplishing these ends. If you think that they are best accomplished by secret societies, by hiding from the face of day, by men who will not acknowledge what they are doing, and by refusing public employment to men and women who think on these subjects exactly as we do, but whose religious faith differs from ours, then I don't agree with you. I think your method will result in driving and compacting together, in solid mass, persons who will soon number nearly or quite fifty per cent. of the voting population of Massachusetts. Nothing strengthens men, nothing makes them so hard to hear reason, nothing so

drives them to extremity in opinion or in action as persecution or proscription.

On the other hand, my method is the method of absolute freedom and of pure reason. The Catholic boy, who has grown up in our common schools, who has formed his youthful friendships with his Protestant classmates, whose daughter or sister, as he grows older, is employed as a teacher, will very soon be as attached to our common school system as we are ourselves. He will be required, as he gets property, to pay his share of its support. He cannot ask to be exempt from a tax to which all Protestants cheerfully submit, whether their own children be in the schools or not, and he will not easily be made to give his consent to paying twice. The American Spirit, the Spirit of the age, the Spirit of Liberty, the Spirit of Equality, especially what Roger Williams called "Soul Liberty" is able to maintain herself in a fair field and in a free contest against all comers. Do not compel her to fight in a cellar. Do not compel her to breathe the damp, malarial atmosphere of dark places. Especially let no member of the Republican Party, the last child of freedom, lend his aid to such an effort. The atmosphere of the Republic is the air of the mountain top and the sunlight and the open field. Her emblem is the eagle and not the bat.

I am faithfully yours,

George F. Hoar.

After the publication of the foregoing letter, I received one from Theodore Roosevelt, who was holding a high office in New York City, then at the beginning of his illustrious political career. He expressed his hearty sympathy and approval, and offered to lay aside everything else and come to my aid, if I so desired. I need not say I took special pleasure in this letter, which disclosed so unmistakably the honest and brave heart of the man, who was then in his difficult office fighting wild beasts at Ephesus. But I did not need to accept his offer.

I was angrily denounced. But the leading Republican papers soon came to my support. The Republican political

leaders generally, though quietly, approved what I had said and done. The generous and just heart of the American people was stirred, and the result was that the movement, inspired by bigotry and intolerance, lost its force, languished for a year or two, and was little heard of afterward.

I dare say that the same causes which excited it may provoke a similar movement more than once hereafter. But I believe it will fail as that failed.

I know how prone men are, especially old men, in telling the story of their lives, to over-estimate the value and the consequence of the things in which they have taken a part. But I think I am not extravagant in claiming that the overthrow of this dangerous delusion was of great value not only to the Republican Party, but to the cause of religious liberty in this country, and that the success of the A. P. A. would have been the destruction of both.

CHAPTER XXX

THE ENGLISH MISSION

I MAY as well put on record here a matter which I suppose has never been made public. When in President Hayes's time Mr. Welsh resigned the English Mission, Mr. Lowell, then in Spain, was strongly recommended for the place. Mr. Evarts, Secretary of State, was quite unwilling to have Mr. Lowell appointed. I fancied that Mr. Evarts might have been influenced somewhat by his reluctance to appoint a Harvard man. He was an exceedingly pleasant-natured man, with no bitterness in him. But he entered with a good deal of zeal into the not unhealthy rivalry between the two famous Universities, Harvard and Yale. Of course I did not like that notion. President Hayes had an exceedingly friendly feeling for Harvard. He had studied at the Harvard Law School, and later had the degree of Doctor of Laws there. Mr. Lowell hesitated about accepting the duty. I said to the President: "In the matter of the English Mission, if Mr. Lowell declines, I have a suggestion to make which Mr. Evarts, I am afraid, won't like very well. But I wish to ask you to consider it, Evarts or no Evarts." My relations with both of them made this familiar and half-boyish style of dealing with so important a matter not unbecoming. "I think President Eliot would be an excellent person for such a service. It is understood that he is somewhat out of health. I think if he should go to England for a year or two, and take a vacation from his duties at the College, it would reflect great credit on your Administration and on the country, and he would return to his duties at Harvard with renewed health and added reputation and capacity for usefulness." Mr. Hayes did not quite commit himself. But he expressed his very emphatic approval of the idea, and said he guessed it might be brought to pass. But I had, at his request, sent a cable to Mr. Low-

ell who was then in Spain, urging him to take the place. He was then hesitating, but finally, as is well known, consented.

I was on the friendliest terms with President Hayes. As I have already said he was good enough to offer me the office of Attorney-General, when the appointment of Devens to the Circuit Court was under consideration.

I had already, before that time, received from Mr. Evarts, Secretary of State, the offer of the English Mission, as I have said in another place, when Mr. Welsh resigned.

I may as well state here, although it belongs to a later time, that the offer was made to me again, by President McKinley. I give the correspondence with President McKinley when he made me that offer:

EXECUTIVE MANSION, WASHINGTON, D. C.
September 13, 1898.

HON. GEORGE F. HOAR (Confidential),
WORCESTER, MASSACHUSETTS.

It would give me much satisfaction to appoint you Ambassador to London. Will it be agreeable to you?

WILLIAM MCKINLEY.

September 14, 1898.

TO THE PRESIDENT, WASHINGTON, D. C.

I am highly honored by your confidence, for which I am grateful. But I believe I can better serve my country, and better support your Administration by continuing to discharge the legislative duties to which I have been accustomed for thirty years, than by undertaking new responsibilities at my age, now past seventy-two. If it were otherwise, I cannot afford to maintain the scale of living which the social customs of London make almost indispensable to an Ambassador, and I have no right to impose upon my wife, in her present state of health, the burden which would fall upon her. Be assured of my warm personal regard and of my desire to stand by you in the difficult and trying period which is before you.

GEO. F. HOAR.

CHAPTER XXXI

PRESIDENT ROOSEVELT AND THE SYRIAN CHILDREN

A very touching incident, characteristic of the kind heart of President Roosevelt, ought to be put on record in connection with his visit to Worcester.

During the Christmas holidays of 1901 a very well known Syrian, a man of high standing and character, came into my son's office and told him this story:

A neighbor and countryman of his had a few years before emigrated to the United States and established himself in Worcester. Soon afterward, he formally declared his intention of becoming an American citizen. After a while, he amassed a little money and sent to his wife, whom he had left in Syria, the necessary funds to convey her and their little girl and boy to Worcester. She sold her furniture and whatever other belongings she had, and went across Europe to France, where they sailed from one of the northern ports on a German steamer for New York.

Upon their arrival at New York it appeared that the children had contracted a disease of the eyelids, which the doctors of the Immigration Bureau declared to be trachoma, which is contagious, and in adults incurable. It was ordered that the mother might land, but that the children must be sent back in the ship upon which they arrived, on the following Thursday. This would have resulted in sending them back as paupers, as the steamship company, compelled to take them as passengers free of charge, would have given them only such food as was left by the sailors, and would have dumped them out in France to starve, or get back as beggars to Syria.

The suggestion that the mother might land was only a cruel mockery. Joseph J. George, a worthy citizen of Worcester, brought the facts of the case to the attention of my son, who in turn brought them to my attention. My son had

meantime advised that a bond be offered to the Immigration authorities to save them harmless from any trouble on account of the children.

I certified these facts to the authorities and received a statement in reply that the law was peremptory, and that it required that the children be sent home; that trouble had come from making like exceptions theretofore; that the Government hospitals were full of similar cases, and the authorities must enforce the law strictly in the future. Thereupon I addressed a telegram to the Immigration Bureau at Washington, but received an answer that nothing could be done for the children.

Then I telegraphed the facts to Senator Lodge, who went in person to the Treasury Department, but could get no more favorable reply. Senator Lodge's telegram announcing their refusal was received in Worcester Tuesday evening, and repeated to me in Boston just as I was about to deliver an address before the Catholic College there. It was too late to do anything that night. Early Wednesday morning, the day before the children were to sail, when they were already on the ship, I sent the following dispatch to President Roosevelt:

To the President, White House, Washington, D. C.

I appeal to your clear understanding and kind and brave heart to interpose your authority to prevent an outrage which will dishonor the country and create a foul blot on the American flag. A neighbor of mine in Worcester, Mass., a Syrian by birth, made some time ago his public declaration for citizenship. He is an honest, hard-working and every way respectable man. His wife with two small children have reached New York.

He sent out the money to pay their passage. The children contracted a disorder of the eyes on the ship. The Treasury authorities say that the mother may land but the children cannot, and they are to be sent back Thursday. Ample bond has been offered and will be furnished to save the Government and everybody from injury or loss. I do not think such a thing ought to happen under your Admin-

istration, unless you personally decide that the case is without remedy. I am told the authorities say they have been too easy heretofore, and must draw the line now. That shows they admit the power to make exceptions in proper cases. Surely, an exception should be made in case of little children of a man lawfully here, and who has duly and in good faith declared his intention to become a citizen. The immigration law was never intended to repeal any part of the naturalization laws which provide that the minor children get all the rights of the father as to citizenship. My son knows the friends of this man personally and that they are highly respectable and well off. If our laws require this cruelty, it is time for a revolution, and you are just the man to head it.

GEORGE F. HOAR.

Half an hour from the receipt of that dispatch at the White House Wednesday forenoon, Theodore Roosevelt, President of the United States, sent a peremptory order to New York to let the children come in. They have entirely recovered from the disorder of the eyes, which turned out not to be contagious, but only caused by the glare of the water, or the hardships of the voyage. The children are fair-haired, with blue eyes, and of great personal beauty, and would be exhibited with pride by any American mother.

When the President came to Worcester he expressed a desire to see the children. They came to meet him at my house, dressed up in their best and glorious to behold. The President was very much interested in them, and said when what he had done was repeated in his presence, that he was just beginning to get angry.

The result of this incident was that I had a good many similar applications for relief in behalf of immigrants coming in with contagious diseases. Some of them were meritorious, and others untrustworthy. In the December session of 1902 I procured the following amendment to be inserted in the immigration law.

"Whenever an alien shall have taken up his permanent residence in this country and shall have filed his preliminary

declaration to become a citizen and thereafter shall send for his wife or minor children to join him, if said wife or either of said children shall be found to be affected with any contagious disorder, and it seems that said disorder was contracted on board the ship in which they came, such wife or children shall be held under such regulations as the Secretary of the Treasury shall prescribe until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be deported until such facts have been ascertained.''

CHAPTER XXXII

NATIONAL BANKRUPTCY

I HAVE, since I have been in the Senate, taken great interest in the passage of a bill for a system of National Bankruptcy. The Constitution gives Congress power to establish a uniform system of Bankruptcy. The people of Massachusetts, a commercial and manufacturing State from the beginning, have always desired a Bankrupt law. They were large dealers with other States and with other countries. Insolvent debtors in Massachusetts could not get discharge from their debts contracted in such dealings. The Massachusetts creditors having debts against insolvents in other States found that their debtors under the laws of those States either got preferences or made fraudulent assignments which they could not detect or prevent.

On the other hand, the bankruptcy laws have always been unpopular in many parts of the country. The Democrat who strictly construed the Constitution did not like to see this power of Congress vigorously exercised. The National Courts, who must administer such laws, were always the object of jealousy and suspicion in the South and West. The people did not like to be summoned to attend the settlement of an estate in bankruptcy, hundreds and hundreds of miles, to the place where the United States Court was sitting, in States like Texas or Missouri. The sympathy of many communities is apt to be with the debtor, and not with the creditors, who were represented as harpies or vultures preying on the flesh of their unfortunate victims. A good example of this prejudice will be found in an extract from the speech of Senator Ingalls, of Kansas. He said in defending what was known as the equity scheme:

"The opposition arose first, from the great wholesale merchants in the chief distributing centres of the country. They

have their agents and attorneys in the vicinity of every debtor, obtaining early information of approaching disaster, and ready to avail themselves of the local machinery of State courts by attachment or by preferences, through which they can secure full payment of their claims, to the exclusion of less powerful or less vigilant but equally meritorious creditors. Naturally they want no Bankrupt law of any description.

"Second. From the disabled veterans of the old army registers; from the professional assignees and wreckers of estates, who, by exorbitant fees and collusive sales of assets to convenient favorites, plundered debtor and creditor alike and made the system an engine of larceny and confiscation.

"Third. From those who desire, instead of a system for the discharge of honest but unfortunate debtors upon the surrender of their estates, a criminal code and a thumb-screw machine for the collection of doubtful and desperate debts. They covet a return to the primitive practices which prevailed in Rome, when the debtor was sold into slavery or had his body cut into pieces and distributed pro rata among his creditors.

"Fourth. From those timid and cautious conservatives who believe that nothing is valuable that is not venerable.

"Like the statesman described by Macaulay, they prefer to perish by precedent rather than be saved by innovation. They adhere to ancient failures rather than incur the risk of success through venture and experiment.

"Fifth. From Boards of Trade, Chambers of Commerce and other ornamental organizations who, being entirely uninformed on the subject, permit themselves to become the conduits through which the misrepresentation and animosity of avaricious creditors and rapacious attorneys are discharged upon Congress and the country."

I had moved in the Senate, in 1882, a bill favored by the merchants and manufacturers of Massachusetts, which was largely the work of Judge John Lowell, of the United States Circuit Court, one of the most accomplished lawyers of his day, as an amendment to a bill which Mr. Edmunds, Mr.

Davis and Mr. Ingalls had reported as a Subcommittee to the Senate Judiciary Committee, and which had been reported from that Committee to the Senate.

The Lowell Bill was on my motion substituted for the report of the Judiciary Commitee, by a majority of three. This bill was extensively discussed in June and December. But I was unable to secure its passage. It passed the Senate, but it did not get through the House.

I have had the Parliamentary charge of all Bankruptcy measures in the Senate from that time. After the failure of the Lowell Bill, the Boards of Trade and Chambers of Commerce, and other like associations throughout the country, took up the matter very zealously by employing an able lawyer, the Hon. Jay L. Torrey of Missouri, to present the matter in the two Houses of Congress. He was thoroughly acquainted with the principles and history of Bankruptcy laws in this country and England. But he had no compromise in him. He insisted on the Bill which he drew, which was a modification of the Lowell Bill, without being willing to make any concession to objection or difference of opinion in Congress, or out of it. He said he would have a perfect law, or none at all. The measure as he drew it was apparently very austere and harsh to the debtor. It enumerated a large number of offences for which the debtor was to be punished by fine and imprisonment, and by a denial of his discharge. Mr. Torrey's provisions were not very unreasonable. But they made it seem as if the Bill were a penal code for the punishment of fraudulent debtors. A simple provision that any debtor who wilfully should make false answer to any question lawfully put to him by the Court, or who wilfully concealed or attempted to conceal any property from his assignee should lose his discharge and be punished with a proper and moderate punishment, would have answered the whole purpose. I take some blame to myself for not insisting more strenuously upon modifying Mr. Torrey's measure. But he constantly visited different Senators and Representatives and came back to me with glowing accounts of the prospects of the Bill, and of their promises to support the Bill. He was also the agent of the

business organizations of the country who had passed resolutions in favor of the measure as he had drawn it. It seemed to me therefore that if I should get the Bill amended and then it got lost, I should incur the great reproach of having obstinately set up my judgment against that of this large number of the ablest men in the country, who were so deeply interested in the matter. So the Bill, though brought up and pressed Congress after Congress, failed until Mr. Torrey enlisted in the Spanish War.

I then introduced a Bill in a softened and modified form. It was attacked in that form by Senator Nelson of Minnesota, a very excellent lawyer and gentleman of great influence, in the Senate. He succeeded in having the Bill modified and softened still more. The Bill then passed and went to the House which, under the leadership of the Judiciary Committee, substituted the original Bill.

Mr. Nelson and I, with Mr. Lindsay of Kentucky, were put on the Conference Committee in the Senate, with Mr. Henderson, afterward Speaker, Mr. Ray of New York, now Judge of the U. S. District Court, and Mr. Terry of Missouri, on the part of the House. We struggled nearly the whole winter. Mr. Nelson and Mr. Ray took the burden of the contest upon their shoulders. Their attempts at compromise reminded their brethren of the old scientific problem—"What will happen when an irresistible force encounters an immovable obstacle." But both gentlemen, each exceedingly firm in his own opinion when he thought he was in the right, were wise and reasonable and conscientious men. So at last they agreed upon the present Bankruptcy Bill, which became a law July 1, 1898. It was on the whole satisfactory to the country, except for one clause in it, which was interpreted by the United States Supreme Court in a manner contrary to the understanding and expectation of the framers of the Bill.

A law was passed February 7, 1903, correcting this and some minor defects. It is hoped, though we cannot be sure in such a matter, that a permanent system of Bankruptcy, so essential to all commercial, indeed to all civilized nations, is now established, and will be maintained in the United States.

CHAPTER XXXIII

THE PHILIPPINE ISLANDS

It has been my singular ill fortune that I have been compelled to differ from the Republican Party, and from a good many of my political associates, upon many important matters.

It has been my singular good fortune that, so far, they have all come to my way of thinking, as have the majority of the American people, in regard to every one, with perhaps one exception. That is the dealing of the American people with the people of the Philippine Islands, by the Treaty with Spain. The war that followed it crushed the Republic that the Philippine people had set up for themselves, deprived them of their independence, and established there, by American power, a Government in which the people have no part, against their will. No man, I think, will seriously question that that action was contrary to the Declaration of Independence, the fundamental principles declared in many State constitutions, the principles avowed by the founders of the Republic and by our statesmen of all parties down to a time long after the death of Lincoln.

If the question were, whether I am myself right, or whether my friends and companions in the Republican Party be right, I should submit to their better judgment. But I feel quite confident, though of that no man can be certain, that if the judgment of the American people, even in this generation, could be taken on that question alone, I should find myself in the majority. If it be not so, the issue is between the opinion of the American people for more than a century, and the opinion that the American people has expressed for one or two Presidential terms.

Surely I do not need to argue the question; at any rate, I will not here undertake to argue the question, that our dealing with the Philippine people is a violation of the

principles to which our people adhered from 1776 to 1893. If the maintenance of slavery were inconsistent with them, it was admitted that in that particular we were violating them, or were unable from circumstances to carry them into effect. Mr. Jefferson thought so himself.

But the accomplishment by this Republic of its purpose to subjugate the Philippine people to its will, under the claim that it, and not they, had the right to judge of their fitness for self-government, is a rejection of the old American doctrine as applicable to any race we may judge to be our inferior.

This doctrine will be applied hereafter, unless it be abandoned, to the Negro at home. Senator Tillman of South Carolina well said, and no gentleman in the Senate contradicted him: "Republican leaders do not longer dare to call into question the justice or the necessity of limiting Negro suffrage in the South." The same gentleman said at another time: "I want to call your attention to the remarkable change that has come over the spirit of the dream of the Republicans. Your slogans of the past—brotherhood of man and fatherhood of God—have gone glimmering down through the ages. The brotherhood of man exists no longer." These statements of Mr. Tillman have never been challenged, and never can be.

I do not mean here to renew the almost interminable debate. I will only make a very brief statement of my position:

The discussion began with the acquisition of Hawaii. Ever since I came to the Senate I had carefully studied the matter of the acquisition of Hawaii. I had become thoroughly satisfied that it would be a great advantage to the people of the United States, as well as for the people of Hawaii.

Hawaii is 2,100 miles from our Pacific coast. Yet if a line be drawn from the point of our territory nearest Asia to the Southern boundary of California, that line being the chord of which our Pacific coast is the bow, Hawaii will fall this side of it. Held by a great Nation with whom we were at war, it would be a most formidable and valuable base of

supplies. We had sustained a peculiar relation to it. American missionaries had redeemed the people from barbarism and Paganism. Many of them, and their descendants, had remained in the Islands. The native Hawaiians were a perishing race. They had gone down from 300,000 to 30,000 within one hundred years.

The Japanese wanted it. The Portuguese wanted it. Other nations wanted it. But the Hawaiians seemed neither to know nor care whether they wanted it or no. They were a perishing people. Their only hope and desire and expectation was that in the Providence of God they might lead a quiet, undisturbed life, fishing, bathing, supplied with tropical fruits, and be let alone.

We had always insisted that our relation to them was peculiar; that they could not be permitted to fall under the dominion of another power, even by their own consent. That had been declared by our Department of State under Administrations of all parties, including Mr. Webster, Mr. Seward, and Mr. Bayard. They were utterly helpless. As their Queen has lately declared: "The best thing for them that could have happened was to belong to the United States."

By the Constitution of Hawaii, the Government had been authorized to make a treaty of annexation with this country. It was said that that Constitution was the result of usurpation which would not have to come to pass but for American aid, and the presence of one of our men-of-war. But that Government had been maintained for six or seven years. Four of them were while Mr. Cleveland was President, who it was well known would be in full sympathy with an attempt to restore the old Government. So if the people had been against it, the Government under that Constitution could not have lasted an hour.

President Harrison had negotiated a treaty of annexation, against which no considerable remonstrance or opposition was uttered. My approval of it was then, I suppose, well known. Certainly no friend of mine, and nobody in Massachusetts, so far as I know, in the least objected or remonstrated against it. The treaty was withdrawn from the consideration of the Senate by President Cleveland.

Another was negotiated soon after President McKinley came in. Meantime, however, the controversy with Spain had assumed formidable proportions, and the craze for an extension of our Empire had begun its course. Many Republican leaders were advocating the acquisition of the Hawaiian Islands, not for the reasons I have just stated, but on the avowed ground that it was necessary we should own them as a point of vantage for acquiring dominion in the East. It was said that China was about to be divided among the great Western powers, and that we must have our share. I saw when the time approached for action on the McKinley Treaty that the question could not be separated, at least in debate, from the question of entering upon a career of conquest of Empire in the Far East.

Under these circumstances the question of duty came to me: Will you adhere to the purpose long formed, and vote for the acquisition of Hawaii solely on its own merit? Or, will you vote against it, for fear that the bad and mischievous reasons that are given for it in so many quarters, will have a pernicious tendency only to be counteracted by the defeat of the treaty itself?

I hesitated long. President McKinley sent for me to come to the White House, as was his not infrequent habit. He said he wanted to consult me upon the question whether it would be wise for him to have a personal interview with Senator Morrill of Vermont. He had been told that Mr. Morrill was opposed to the Treaty. The President said: "I do not quite like to try to influence the action of an old gentleman like Mr. Morrill, so excellent, and of such great experience. It seems to me that it might be thought presumptuous, if I were to do so. But it is very important to us to have his vote, if we can." The President added something implying that he understood that I was in favor of the Treaty.

I said, "I ought to say, Mr. President, in all candor, that I feel very doubtful whether I can support it myself." President McKinley said: "Well, I don't know what I shall do. We cannot let those Islands go to Japan. Japan has her eye on them. Her people are crowding in there. I

am satisfied they do not go there voluntarily, as ordinary immigrants, but that Japan is pressing them in there, in order to get possession before anybody can interfere. If something be not done, there will be before long another Revolution, and Japan will get control. Some little time ago the Hawaiian Government observed that when the immigrants from a large steamer went ashore they marched with a military step, indicating that they were a body of trained soldiers. Thereupon Hawaii prohibited the further coming in of the Japanese. Japan claimed that was in violation of their treaty, and sent a ship of war to Hawaii. I was obliged to notify Japan that no compulsory measures upon Hawaii, in behalf of the Japan Government, would be tolerated by this country. So she desisted. But the matters are still in a very dangerous position, and Japan is doubtless awaiting her opportunity.''

I told President McKinley that I favored then, as I always had, the acquisition of Hawaii. But I did not like the spirit with which it was being advocated both in the Senate and out of it. I instanced several very distinguished gentlemen indeed, one a man of very high authority in the Senate in matters relating to foreign affairs, who were urging publicly and privately the Hawaiian Treaty on the ground that we must have Hawaii in order to help us get our share of China. President McKinley disclaimed any such purpose. He expressed his earnest and emphatic dissent from the opinions imputed to several leading Republicans, whom he named.

I never, at any time during the discussion of the Philippine question, expressed a more emphatic disapproval of the acquisition of dependencies or Oriental Empire by military strength, than he expressed on that occasion. I am justified in putting this on record, not only because I am confirmed by several gentlemen in public life, who had interviews with him, but because he made in substance the same declarations in public.

He declared, speaking of this very matter of acquiring sovereignty over Spanish territory by conquest:

"Forcible annexation, according to our American code of morals, would be criminal aggression."

He said at another time:

"Human rights and constitutional privileges must not be forgotten in the race for wealth and commercial supremacy. The Government of the people must be by the people and not by a few of the people. It must rest upon the free consent of the governed and all of the governed. Power, it must be remembered, which is secured by oppression or usurpation or by any form of injustice is soon dethroned. We have no right in law or morals to usurp that which belongs to another, whether it is property or power."

I suppose he was then speaking of our duty as to any people whom we might liberate from Spain, as the result of the Spanish War. He unquestionably meant that we had no right, in law or morals, to usurp the right of self-government which belonged to the Cubans, or to the Philippine people.

Yet I have no doubt whatever that in the attitude that he took later he was actuated by a serious and lofty purpose to do right. I think he was led on from one step to another by what he deemed the necessity of the present occasion. I dare say that he was influenced, as any other man who was not more than human would have been influenced, by the apparently earnest desire of the American people, as he understood it, as it was conveyed to him on his Western journey. But I believe every step he took he thought necessary at the time. I further believe, although I may not be able to convince other men, and no man will know until the secret history of that time shall be made known, that if he had lived, before his Administration was over, he would have placed the Republic again on the principles from which it seems to me we departed—the great doctrine of Jefferson, the great doctrine of the Declaration of Independence, that there can be no just Government by one people over another without its consent, and that the International law declared by the Republic is that all Governments must depend for

their just powers upon the consent of the governed. This was insisted on by our Fathers as the doctrine of International law, to be acted upon by the infant Republic for itself. In this I am confirmed by the testimony of Mr. Secretary Long, who was in President McKinley's most intimate counsels.

The Treaty negotiated by President McKinley with Hawaii was not acted upon. It was concluded to substitute a joint resolution, for which there was a precedent in the case of the acquisition of Texas. I voted for the joint resolution, as did Senator Hale of Maine, and several Democratic Senators, who were earnestly opposed to what is known as the policy of Imperialism.

I left the President, after the conversation above related, without giving him any assurance as to my action. But I determined on full reflection, to support the acquisition of Hawaii, in accordance with my long-settled purpose, and at the same time to make a clear and emphatic statement of my unalterable opposition to acquiring dependencies in the East, if we did not expect, when the proper time came, to admit them to the Union as States. This I did to the best of my power. I was invited to give an address before a college in Pennsylvania, where I took occasion to make an emphatic declaration of the doctrine on which I meant to act.

Afterward, July 5, 1898, I made a speech in the Senate, on the joint resolution for the acquisition of Hawaii, in which I said that I had entertained grave doubts in regard to that measure; that I had approached the subject with greater hesitation and anxiety than I had ever felt in regard to any other matter during the whole of my public life.

I went on to say:

"The trouble I have found with the Hawaiian business is this: Not in the character of the population of the Sandwich Islands, not in their distance from our shores, not in the doubt that we have an honest right to deal with the existing government there in such a matter. I have found my trouble in the nature and character of the argument by

which, in the beginning and ever since, a great many friends of annexation have sought to support it. . . .

"If this be the first step in the acquisition of dominion over barbarous archipelagoes in distant seas; if we are to enter into competition with the great powers of Europe in the plundering of China, in the division of Africa; if we are to quit our own to stand on foreign lands; if our commerce is hereafter to be forced upon unwilling peoples at the cannon's mouth; if we are ourselves to be governed in part by peoples to whom the Declaration of Independence is a stranger; or, worse still, if we are to govern subjects and vassal States, trampling as we do it on our own great Charter which recognizes alike the liberty and the dignity of individual manhood, then let us resist this thing in the beginning, and let us resist it to the death.

"I do not agree with those gentlemen who think we would wrest the Philippine Islands from Spain and take charge of them ourselves. I do not think we should acquire Cuba, as the result of the existing war, to be annexed to the United States."

I reinforced this protest as well as I could. But I went on to state the reasons which had actuated me in favoring the measure, and that my unconquerable repugnance to the acquisition of territory to be held in dependency did not apply to that case.

I cited the Teller resolution, and declared that it bound the American people in honor, and that its principle applied to all Spanish territory. I maintained that there was nothing in the acquisition of Hawaii inconsistent with this doctrine. I think so still.

I was bitterly reproached by some worthy persons, who I suppose will always find matter for bitter reproach in everything said or done on public matters. They charged me with speaking one way and voting another. But I am content to leave the case on its merits, and on the record.

The war went on. The feeling of the country was deeply excited. President McKinley made his famous Western journey. He was greeted by enthusiastic throngs. The

feeling in that part of the country in favor of permanent dominion over the Philippine Islands was uttered by excited crowds, whom he addressed from the platform and the railroad cars as he passed through the country. But the sober, conservative feeling, which seldom finds utterance in such assemblies, did not make itself heard.

The President returned to Washington, undoubtedly in the honest belief that the country demanded that he acquire the Philippine Islands, and that Congress should govern them.

I have never attributed publicly, or in my own heart, to President McKinley any but the most conscientious desire to do his duty in what, as the case seems to me, was an entire change of purpose. Many military and naval officers, from whose reports he had to get his facts almost wholly, insisted that the Philippine people were unfit for self-government. After the unhappy conflict of arms the solution of the problem seemed to be to compel the Philippine people to unconditional submission. It would not be just or fair that I should undertake to state the reasons which controlled the President in adopting the conclusions to which I did not myself agree. I am merely telling my own part in the transaction.

When I got back to Washington, at the beginning of the session in December, 1898, I had occasion to see the President almost immediately. His purpose was to make a Treaty by which, without the assent of their inhabitants, we should acquire the Philippine Islands. We were to hold and govern in subjection the people of the Philippine Islands. That was pretty well understood.

The national power of Spain was destroyed. It was clear that she must submit to whatever terms we should impose. The President had chosen, as Commissioners to negotiate the Treaty, five gentlemen, three of whom, Senators Cushman K. Davis, and William P. Frye and Whitelaw Reid, the accomplished editor of the New York *Tribune,* former Minister to France, were well known to be zealous for acquiring territory in the East. Mr. Frye was said to have declared in a speech not long before he went abroad that he was in favor

of keeping everything we could lay our hands on. I suppose that was, however, intended as a bit of jocose extravagance, which that most excellent gentleman did not mean to have taken too seriously.

Mr. Day, the Secretary of State, and Senator Gray of Delaware, were understood to be utterly opposed to the policy of expansion or Imperialism.

I do not know about Mr. Day. But it appeared, when three years afterward the correspondence between the Commissioners and the Department of State became public, that Mr. Day expressed no objection to the acquisition of Luzon, but objected to a peremptory demand for the whole Philippine Island group, thereby—to use his language—"leaving us open to the imputation of following agreement to negotiate with demand for whole subject matter of discussion ourselves."

The public impression as to Senator Gray is confirmed by the following remonstrance, which appears in the same correspondence:

PEACE COMMISSIONERS TO MR. HAY
[Telegram.]

PARIS, October 25, 1898.

The undersigned cannot agree that it is wise to take Philippine Islands in whole or in part. To do so would be to reverse accepted continental policy of the country, declared and acted upon throughout our history. Propinquity governs the case of Cuba and Porto Rico. Policy proposed introduces us into European politics and the entangling alliances against which Washington and all American statesmen have protested. It will make necessary a navy equal to largest of powers; a greatly increased military establishment; immense sums for fortifications and harbors; multiply occasions for dangerous complications with foreign nations, and increase burdens of taxation. Will receive in compensation no outlet for American labor in labor market already overcrowded and cheap; no area for homes for American citizens; climate and social conditions demoralizing to character of American youth; new and disturbing questions in-

troduced into our politics; church question menacing. On whole, instead of indemnity—injury.

The undersigned cannot agree that any obligation incurred to insurgents is paramount to our own manifest interests. Attacked Manila as part of legitimate war against Spain. If we had captured Cadiz and Carlists had helped us, would not owe duty to stay by them at the conclusion of war. On the contrary, interests and duty would require us to abandon both Manila and Cadiz. No place for colonial administration or government of subject people in American system. So much from standpoint of interest; but even conceding all benefits claimed for annexation, we thereby abandon the infinitely greater benefit to accrue from acting the part of a great, powerful, and Christian nation; we exchange the moral grandeur and strength to be gained by keeping our word to nations of the world and by exhibiting a magnanimity and moderation in the hour of victory that becomes the advanced civilization we claim, for doubtful material advantages and shameful stepping down from high moral position boastfully assumed. We should set example in these respects, not follow in the selfish and vulgar greed for territory which Europe has inherited from mediæval times. Our declaration of war upon Spain was accompanied by a solemn and deliberate definition of our purpose. Now that we have achieved all and more than our object, let us simply keep our word. Third article of the protocol leaves everything concerning the control of the Philippine Islands to negotiation between the parties.

It is absurd now to say that we will not negotiate but will appropriate the whole subject-matter of negotiation. At the very least let us adhere to the President's instructions and if conditions require the keeping of Luzon forego the material advantages claimed in annexing other islands. Above all let us not make a mockery of the injunction contained in those instructions, where, after stating that we took up arms only in obedience to the dictates of humanity and in the fulfillment of high public and moral obligations, and that we had no design of aggrandizement and no ambition of conquest, the President among other things eloquently says:

"It is my earnest wish that the United States in making peace should follow the same high rule of conduct which guided it in facing war. It should be as scrupulous and magnanimous in the concluding settlement as it was just and humane in its original action."

This and more, of which I earnestly ask a reperusal, binds my conscience and governs my action.

GEORGE GRAY.

WEDNESDAY, 12.30, night.

Senator Gray afterward signed the Treaty, defended it in debate, and voted for its ratification. He vigorously defended his vote on the floor of the Senate, chiefly by the argument that when he learned that it was the purpose of the United States to expel Spain from the Philippine Islands, he concluded it was our duty to remain there for the protection of the people against foreign rapacity and against domestic anarchy. He claimed that he had been influenced in coming to this conclusion very considerably by the fact that I was reported to have said that under no circumstances would we give back the Philippine people to Spain. That was true. I believed then, and believe now, that it was our duty to deliver them from Spain, to protect them against her, or against the cupidity of any other nation until her people could have tried fully the experiment of self-government, in which I have little doubt they would have succeeded.

When I saw President McKinley early in December, 1898, he was, I suppose, committed to the policy to which he adhered. He greeted me with the delightful and affectionate cordiality which I always found in him. He took me by the hand, and said: "How are you feeling this winter, Mr. Senator?" I was determined there should be no misunderstanding. I replied at once: "Pretty pugnacious, I confess, Mr. President." The tears came into his eyes, and he said, grasping my hand again: "I shall always love you, whatever you do."

I found we differed widely on this great subject. I denounced with all the vigor of which I was capable the

Treaty, and the conduct of the war in the Philippine Islands, in the Senate, on the platform, in many public letters, and in articles in magazines and newspapers. But President McKinley never abated one jot of his cordiality toward me. I did not, of course, undertake to press upon him my advice in matters affecting the Philippine Islands, about which we differed so much. But he continued to seek it, and to take it in all other matters as constantly as ever before.

In order that it may not be supposed that I deceived myself in regard to President McKinley's kindly regard, I may perhaps be pardoned for saying that his close friend, Senator Hanna, has more than once assured me that McKinley's love for me was never abated, and for citing a sentence from an article by Charles Emory Smith, his trusted counsellor and able and accomplished Postmaster-General, in his Cabinet. Mr. Smith says:

"Senator Hoar was the earnest foe and critic of President McKinley's policy. But President McKinley had the warmest regard and consideration for him. Nothing, indeed, in public life was sweeter than the sentiment of these different and differing men toward each other. President McKinley was anxious to commission Senator Hoar as Minister to England, and proffered him the place. It was without any desire to remove him from the arena of contention—apprehension of such a reflection restrained the proffer for a time—though the contention had not then been fully developed."

After President McKinley's death I expressed the public sorrow and my own in an address to a vast audience of the people of my own city of Worcester, in Mechanics' Hall; and again, at the request of the Republican State Committee, at the Republican State Convention shortly afterward.

I have reason to know that both these addresses gave pleasure to many of the lamented President's closest and warmest friends throughout the country. I was afterward invited by the City Government of Worcester to deliver a historical eulogy on President McKinley before them. That

office, it seemed to me, I ought to decline. It was not because I was behind any other man in admiration or personal affection for that lofty and beautiful character. But I thought that address, which was not only to utter the voice of public sorrow, but to give a careful and discriminating sketch of the public life of its subject, ought to be delivered by some person who agreed with him in regard to the most important action of his life. I could not well pass over the Philippine question. I could not well speak of it without stating my own opinion. I could not undertake to state President McKinley's opinion, conduct or policy, without expressing my disapproval of it, and if I did not do that, I could not state it without being thought by those who heartily approved it, not to have stated it justly and fairly.

I had repeatedly declared, during the preceding two years, both before and since his death, my highest admiration for the intellectual and moral qualities of my beloved friend, and my belief that he would have a very high place in history among the best and ablest men of the country.

But I thought the story of the important part of his life should be told from his point of view, and not from mine; that the reasons which governed him should be stated by a person sure to appreciate them fully. If a great Catholic Prelate were to die, his eulogy should not be pronounced by a Protestant. When Dr. Channing died, we did not select a Calvinist minister to pronounce his funeral sermon. When Charles Sumner died Mr. Schurz and Mr. Curtis, not some old Whig, and not some earnest supporter of General Grant, pronounced the eulogy. I suppose nobody would have dreamed of asking a Free Trader to pronounce the eulogy on President McKinley if he had died soon after the beginning of his first term. So I declined the office. The City did not ask anybody else to fill my place, or perform the task.

I will not now renew the debate about our treatment of the people of the Philippine Islands. My opinion has not at all changed. I think that under the lead of Mabini and Aguinaldo and their associates, but for our interference, a Republic would have been established in Luzon, which would

have compared well with the best of the Republican Governments between the United States and Cape Horn. For years and for generations, and perhaps for centuries, there would have been turbulence, disorder and revolution. But in her own way Destiny would have evolved for them a form of civic rule best adapted to their need. If we had treated them as we did Cuba, we should have been saved the public shame of violating not only our own pledges, but the rule of conduct which we had declared to be self-evident truth in the beginning of our history. We should have been saved the humiliation of witnessing the subjection by Great Britain of the Boers in South Africa, without a murmur of disapproval, and without an expression of one word of sympathy for the heroic victims.

My term as Senator expired on the fourth of March, 1901. The election of Senator for the following term came in January of that year. I differed sharply from my colleague, Mr. Lodge, in this whole matter. But the people of Massachusetts, with the generous and liberal temper which ever distinguished that noble Commonwealth, desired that their Senators should act upon their own judgment, without any constraint.

A resolution was introduced at the session of the Legislature of 1899 by Mr. Mellen, Democratic member from Worcester, thanking me for my speech in opposition to the Spanish Treaty, endorsing the doctrine of that speech, and condemning the subjugation of the Philippine people by force of arms.

Charles G. Washburn, Republican member from Worcester, introduced a resolution commending my speech, and declaring it to be "A speech of the loftiest patriotism and eloquent interpretation of the high conception of human freedom which the fathers sought to preserve for all time in the Declaration of Independence and in the Constitution of the United States."

These resolutions, if adopted, would, by implication, condemn the well-known opinion and action of my colleague. They were encountered by several others, none of which referred to either Senator, but expressed approval of the

Spanish Treaty. One of them, however, presented in the House by Mr. Mills of Newburyport, declared that the Treaty ought to be ratified, and then the United States should fulfil to Porto Rico and the Philippine Islands the pledge of self-government and independence made to Cuba. Very wisely all these resolutions were referred to the Committee on Federal Relations, who reported this as a compromise:

RESOLUTION REPORTED BY THE COMMITTEE ON FEDERAL RELATIONS, OF THE LEGISLATURE, MARCH 29, 1899

Resolved, by the Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled, that Massachusetts, ever loyal in sympathy and support of the General Government, continues her unabated confidence in her Senators, and with a just pride in the eloquent and memorable words they have uttered, leaves them untrammelled in the exercise of an independent and patriotic judgment upon the momentous questions presented for their consideration.

The whole matter was then dropped. But the Legislature, and the generous people of Massachusetts whom they represented, acted upon the spirit of the Committee's Resolution. I was reelected without opposition. I had every Republican vote, and many Democratic votes, of the Legislature. My affectionate and cordial relations with my brilliant and accomplished colleague have never suffered an instant's interruption.

I think I am entitled to record, however, that this result was not accomplished by any abatement of my opposition to the policy of Administration as to the Philippine Islands. I made a great many speeches within a few weeks of the Presidential election in 1900. The members of the Senate and House, of the Massachusetts Legislature, who were to choose a Senator, were to be chosen at the same time. I expressed my unchanged and earnest opposition of disapproval to the whole business at length.

In speaking of the habit of appealing to the love of the flag in behalf of this policy of conquest, I said that there was but one symbol more sacred than the American flag. That was the bread and wine which represented the body and blood of the Saviour of mankind; adding, that a man who would use an appeal to the flag in aid of the subjugation of an unwilling people, would be capable of using the sacramental wine for a debauch.

The week before the election of Senator came on a bill for the reorganization of the Army was before the Senate. That contained a provision for increasing the Army to a hundred thousand men, allowing the President, however, to reduce it to seventy thousand, and to raise it again if necessary, so it would in his discretion be elastic, within those limitations.

Mr. Bacon of Georgia, who seemed to be the leader of the Democrats on that measure, inquired of the Republicans who were managing the bill, how many men they needed, and what time would be required to put down the insurrection in the Philippine Islands. Senator Bacon said that they would give them the hundred thousand men, or any force they might demand for one or two or three or five years, or for any required time. But they were unwilling to give the President the power of expanding and contracting the army in time of peace. This was in full Senate.

I followed with a statement that I had no objection to giving the President this discretion, and did not disapprove the bill on that account. I thought the size of the Army in time of peace should be left largely to the opinion of the experts, especially General Miles, the famous soldier at the head of the Army, who thought the regular Army should consist of one hundred for every thousand of our population. That would be about eighty thousand then, and before long would require a hundred thousand men. But I said I was opposed to raising soldiers to carry on the war in the Philippine Islands. The only way to stop it that I knew was to refuse to vote for the Army Bill. I voted against it solely on that account.

I meant that if the Legislature of Massachusetts were to reelect me, no man should ever have it to say that I had bought my reelection by silence on this question, or concealed my opinion, however extreme it might be, until after election.

After my election I delivered an address before the two Houses of the Legislature, at their request, and was received with a most cordial enthusiasm.

Yet I think that if any leading Republican who had differed from me on this question, especially Governor Long, of whose brilliant administration of the Navy the people of the Commonwealth were so proud, had pressed his candidacy for the office in opposition to me, as has been the custom in like cases in other States, it is not unlikely that he would have been elected.

I have no doubt I should have found Governor Roger Wolcott a formidable competitor, if he had lived and been willing. Governor Wolcott had made a statement in public, quietly and briefly, as was his wont, expressing his sympathy with me when the question of the Treaty was under debate. Somewhat later he made a statement in the same way, expressing his opinion that the Administration should be supported. Both these declarations were in general terms. They were not inconsistent with each other. But death arrested the honorable and useful career of Roger Wolcott when he was still in the prime of life, in the strength of his noble manhood, a strength which seemed rapidly enlarging and growing as if in early youth.

I have no doubt that the subjugation of the Philippine Islands, the acquisition of a dependency to be held in subjection by the United States, the overthrow of the great doctrine that Governments rest on the consent of the governed; that all the painful consequences which have attended the war for the subjugation of that distant people, would have been avoided if the Democratic opposition had been hearty and sincere. The same spirit that defeated the Election Bill in spite of the majority in its favor, would have easily accomplished that result. The Democratic Party, as a party, never meant business in this matter. I do not deny

that many Democrats—I dare say a majority of the Democrats—were as earnestly and seriously opposed to the acquisition of the Philippine Islands as I was myself. But they never wielded their party strength in opposition to it. I said to one eminent Democratic leader early in the year 1900: "There is one way in which you can put an end to this whole business. If you can elect a Democratic House it will have power under the Constitution to determine the use to which the Army shall be put. In that way you compelled President Hayes to refrain from further support by military force of the Republican State Governments in the South." He answered: "Mr. Hoar, we shall never do anything as radical as that."

When Senator Bacon made the offer to the majority of the Senate to agree to give them all the military power they desired for the suppression of the resistance in the Philippines for as long a time as they should think it necessary, the entire Democratic Party in the Senate was in their seats, and there was no expression of dissent.

I think the Democratic Party feared the fate of the Federalists who opposed the War of 1812, and of the Democrats who opposed the War for the Union in 1861. This of course in the nature of things is but conjecture.

Seventeen of the followers of Mr. Bryan voted for the Treaty. The Treaty would have been defeated, not only lacking the needful two thirds, but by a majority of the Senate but for the votes of Democrats and Populists.

Senators Morgan and Pettus of Alabama, Senator McLaurin of South Carolina, Senator McEnery of Louisiana, were avowed supporters of the Treaty from the beginning.

Mr. Bryan in the height of the contest came to Washington for the express purpose of urging upon his followers that it was best to support the Treaty, end the War, and let the question of what should be done with our conquest be settled in the coming campaign. He urged upon them, as I was told by several Democrats at the time who did not take his advice, that the Democratic Party could not hope to win a victory on the financial questions at stake after they had been beaten on them in a time of adversity; and

that they must have this issue for the coming campaign. He was besought by his wiser political associates to go away and leave the Senate to settle the matter. But he remained.

After that it became impossible, not only to defeat the Treaty, but to defeat the policy which had inspired it. The Treaty pledged that the Philippine Islands should be governed by Congress. It undertook obligations which require for their fulfilment, at least ten years' control of the Islands. It put the people of the Philippine Islands in the attitude of abandoning the Republic they had formed, and of acknowledging not only our supremacy but that they were neither entitled or fit to govern themselves or to carry on the war which had unfortunately broken out. I do not mean to imply that, as I have said, a large number of the Democratic Party both in public life and out of it, were not sincere and zealous in their opposition to this wretched business. But next to a very few men who controlled the policy of the Republican Party in this matter, Mr. Bryan and his followers who voted in the Senate for the Treaty are responsible for the results.

I have been blamed, as I have said already, because, with my opinions, I did not join the Democratic Party and help to elect Mr. Bryan. I disagreed with him and his party as to every other issue then pending before the American people. So differing from him, I found nothing in his attitude or that of his party, to induce me to support him, or even to inspire my confidence in their settlement of the question of Imperialism or expansion.

In my opinion, if he had been elected, he would have accepted the result, have put the blame for it on his predecessor in office, and matters would have gone on very much as they have under Republican control.

I have been told by many Senators who voted for the Treaty, that they regretted that vote more than any other act of their lives. Enough Senators have said this to me in person, not only to have defeated the Treaty, but if they had so voted, to have defeated it by a majority. A very eminent Republican Senator told me that more than twenty

Senators, who voted for the Treaty, had given the same assurance to him. But they are very unwilling to make the declaration public. Several gentlemen, however, have publicly expressed their regret for their vote, as is well known; enough to have changed the result.

When I think of my party, whose glory and whose service to Liberty are the pride of my life, crushing out this people in their effort to establish a Republic, and hear people talking about *giving* them good Government, and that they are better off than they ever were under Spain, I feel very much as if I had learned that my father, or some other honored ancestor, had been a slave-trader in his time, and had boasted that he had introduced a new and easier kind of hand-cuffs or fetters to be worn by the slaves during the horrors of the middle passage.

I do not believe that there is a respectable or intelligent Filipino to-day, unless possibly some Macabebe scout, who would not get rid of the Government of the United States at once, if he could. Buencamino is said to be one of the ablest of their public men. He has been quoted as friendly to us, and is so. There is no doubt that he has so expressed himself. He has been appointed a member of the Taft Government, and has had committed to him the responsible and important duty of deciding the appointments to the offices which are to be filled by the native Filipinos, under the existing establishment. It is said by both sides that he is crafty and selfish and ambitious, and that he likes to be on the side that is strongest. How that may be, I do not know. But he will not even pretend to accept the rule of the United States willingly. He appeared as a witness before a Committee of the House of Representatives, when in this country in 1902. He was asked whether his people approved the policy of the Democratic Party. He answered emphatically: "No. They do not wish to have the United States abandon them to the ambition or cupidity of foreign Governments." But he added: "Every Filipino is in favor of the policy advocated by Senator Hoar." "What!" said his inquirer, with great surprise, "Do you mean to say that every Filipino agrees with Senator Hoar in his views?"

"Yes," replied the man, with great emphasis; "every Filipino agrees with Senator Hoar."

I mentioned this one day in conversation with President Roosevelt. He told me that Buencamino had said exactly the same thing to him.

General Miles told me on his return from his journey round the world that he saw many leaders of the Philippine people; that they spoke of me with great regard and attachment.

June 17, 1902, an eminent Hindoo scholar, published a long article in the *Japan Times,* in which he said:

"The speech of Mr. Hoar, though an address to his own countrymen, is a message of hope to the whole world which sank with despondency at the sight of Republican America behaving like a cruel, tyrannical and rapacious Empire in the Philippines and particularly to the broken-hearted people of Asia who are beginning to lose all confidence in the humanity of the white races. Or is it that they have lost it already? Hence all papers in Asia should reprint his speech, translate it, and distribute it broadcast. Let it be brought home to the Asiatic people so that they may work and worship their champion and his forefathers. Thanks to the awakening in America, thanks to the forces that are at work to chase out the degenerating, demoralizing passion for territorial aggrandizement from the noble American mind and save it for itself and for the world at large from the cancer of Imperialism."

I am afraid I am committing an offence against good taste in repeating such laudations. But it must be remembered that a public man who has to encounter so much bitter reviling and objurgation, is fairly entitled to have a little extravagance on the other side that the balance may be even. I would rather have the gratitude of the poor people of the Philippine Islands, amid their sorrow, and have it true that what I may say or do has brought a ray of hope into the gloomy caverns in which the oppressed peoples of Asia dwell, than to receive a Ducal Coronet from every Monarch

in Europe, or command the applause of listening Senates and read my history in a Nation's eyes.

At first there can seem nothing more absurd than the suggestion of my Asiatic friend that the people of Asia should worship their champion and his ancestors. But on second thought, it is fair to say that while no human being can be entitled to be worshipped by any other, yet that we got our love of Liberty from our ancestors, or at any rate that is where I got mine, and that they are entitled to all the credit.

CHAPTER XXXIV

APPOINTMENTS TO OFFICE

Among the great satisfactions in the life of public men is that of sometimes being instrumental in the advancement to places of public honor of worthy men, and of being able to have a great and salutary influence upon their lives. I have always held to the doctrine of what is called Civil Service Reform, and have maintained to the best of my ability the doctrine of the absolute independence of the Executive in such matters, as his right to disregard the wishes or opinions of members of either House of Congress, and to make his appointments, executive and judicial, without advice, or on such advice as he shall think best. But, at the same time, there can be no doubt that the Executive must depend on some advice other than his own, to learn the quality of men in different parts of this vast Republic, and to learn what will be agreeable to public opinion and to the party which is administering the Government and is responsible for its administration. He will, ordinarily, find no better source of such information than in the men whom the people have shown their own confidence by entrusting them with the important function of Senator or Representative. He will soon learn to know his men, and how far he can safely take such advice. He must be careful to see to it that he is not induced to build up a faction in his party, or to fill up the public offices with the partisans of ambitious but unscrupulous politicians. When I entered the House of Representatives, before the Civil Service Reform had made any progress, I addressed and had put on file with the Secretary of the Treasury a letter in which I said that I desired him to understand when I made a recommendation to him of any person for public office, it was to be taken merely as my opin-

ion of the merit of the candidate, and not as an expression of a personal request; and that if he found any other person who would in his judgment be better for the public service, I hoped he would make the selection without regard to my recommendation.

I have never undertaken to use public office as personal patronage, or to claim the right to dictate to the President of the United States, or that the Executive was not entirely free, upon such advice as he saw fit, or without advice, if he thought fit, in making his selection for public office.

It has been my good fortune to have influenced, or I think I may fairly say, procured the appointment to public office of many gentlemen who would not have been appointed without my active efforts. I have no reason to be ashamed of one of the list. I believe that the following gentlemen, beside others less distinguished, who have been very satisfactory, able and faithful public servants, owe their appointment to my original suggestion, or would not have been appointed without my earnest efforts.

Charles Devens, Attorney-General; Alanson W. Beard, Collector of the Port of Boston; Horace Gray, first to the office of Reporter of the Supreme Court of Massachusetts, and later to that of Associate Justice of the Supreme Court of the United States; J. Evarts Greene, Postmaster of Worcester; Thomas L. Nelson, Judge of the District Court of Massachusetts; Francis C. Lowell, Judge of the District Court of Massachusetts; Howell E. Jackson, Associate Justice of the Supreme Court of the United States; John D. Washburn, Minister to Switzerland.

I think I may also fairly claim that the election of William B. Washburn as Governor of Massachusetts was due not only to the fact that I originally proposed him as a candidate, but to my active efforts in the campaign which preceded the Convention which nominated him.

There is no man in this list of greater ability or of higher quality of manhood than Evarts Greene. Mr. Greene was compelled by the illness of his wife to remain fast-bound in one spot, instead of going to some large city where his great talent would have commanded a very high place indeed in

his profession as editor. When he edited the Worcester *Spy,* it was one of the most influential Republican newspapers in the country. The *Spy* got into pecuniary difficulties. Mr. Greene, with some reluctance, accepted the office of Postmaster, an office which, according to usage in such cases, was in my gift.

Just before Postmaster-General Wanamaker, whose executive ability no man will question, went out of office, he requested Mr. Greene to send to the Department an account of the improvements he had made and proposed in the post-office service. This was sent in a circular all over the country to other like post-offices.

Just before Mr. Greene died, President Roosevelt visited Worcester. In passing the post-office, where the persons employed in the service were collected, he stopped and said he was glad to see "what we have been accustomed to consider the record post-office." This, as may well be believed, gave Mr. Greene great satisfaction.

CHAPTER XXXV

ORATORY AND SOME ORATORS I HAVE HEARD

The longer I live, the more highly I have come to value the gift of eloquence. Indeed, I am not sure that it is not the single gift most to be coveted by man. It is hard, perhaps impossible, to define, as poetry is impossible to define. To be a perfect and consummate orator is to possess the highest faculty given to man. He must be a great artist, and more. He must be a great actor, and more. He must be a master of the great things that interest mankind. What he says ought to have as permanent a place in literature as the highest poetry. He must be able to play at will on the mighty organ, his audience, of which human souls are the keys. He must have knowledge, wit, wisdom, fancy, imagination, courage, nobleness, sincerity, grace, a heart of fire. He must himself respond to every emotion as an Æolian harp to the breeze. He must have

> An eye that tears can on a sudden fill,
> And lips that smile before the tears are gone.

He must have a noble personal presence. He must have, in perfection, the eye and the voice which are the only and natural avenues by which one human soul can enter into and subdue another. His speech must be filled with music, and possess its miraculous charm and spell,

> Which the posting winds recall,
> And suspend the river's fall.

He must have the quality which Burke manifested when Warren Hastings said, "I felt, as I listened to him, as if I were the most culpable being on earth"; and which made Philip say of Demosthenes, "Had I been there he would have persuaded me to take up arms against myself."

He has a present, practical purpose to accomplish. If he fail in that he fails utterly and altogether. His object is to convince the understanding, to persuade the will, to set aflame the heart of his audience or those who read what he says. He speaks for a present occasion. Eloquence is the feather that tips his arrow. If he miss the mark he is a failure, although his sentences may survive everything else in the permanent literature of the language in which he speaks. What he says must not only accomplish the purpose of the hour, but should be fit to be preserved for all time, or he can have no place in literature, and a small and ephemeral place in human memory.

The orator must know how so to utter his thought that it will stay. The poet and the orator have this in common. Each must so express and clothe his thought that it shall penetrate and take possession of the soul, and, having penetrated, must abide and stay. How this is done, who can tell? Carlyle defines poetry as a "sort of lilt." Cicero finds the secret of eloquence in a

Lepos quidem celeritasque et brevitas.

One writer lately dead, who has a masterly gift of noble and stirring eloquence, finds it in "a certain collocation of consonants." Why it is that a change of a single word, or even of a single syllable, for any other which is an absolute synonym in sense, would ruin the best line in Lycidas, or injure terribly the noblest sentence of Webster, nobody knows. Curtis asks how Wendell Phillips did it, and answers his own question by asking you how Mozart did it.

When I say that I am not sure that this is not the single gift most to be coveted by man, I may seem to have left out the moral quality in my conception of what is excellent. But such is the nature of man that the loftiest moral emotions are still the overmastering emotions. The orator that does not persuade men that righteousness is on his side will seldom persuade them to think or act as he desires; and if he fail in that he fails in his object; and the orator who has not in fact righteousness on his side will in general fail so to persuade them. And even if in rare cases he do persuade

his audience, he does not gain a permanent place in literature. Bolingbroke's speeches, though so enthusiastically praised by the best judges, have perished by their own worthlessness.

Although the danger of the Republic, and his own, still occupied his thoughts, Cicero found time in his old age to record, at the request of his brother Quintus, his opinion, *de omni ratione dicendi*. It is not likely that the treatise "de Oratore" or that "de Claris Oratoribus" will ever be matched by any other writer on this fascinating subject, except the brief and masterly fragment of Tacitus.

He begins by inquiring why it is that, when so many persons strive to attain the gift of eloquence, and its rewards of fame and wealth and power are so great, the number of those who succeed as orators is so small in comparison with the number of those who become great generals, or statesmen, or poets. I suppose this fact, which excited the wonder of Cicero, exists in our country and our time. There is a foreign country which is to us as a posterity. If we reckon those Americans only as great orators who are accepted in England as such, or who, belonging to past generations are so accepted now by their own countrymen, the number is very small. A few sentences of Patrick Henry are preserved, as a few sentences of Lord Chatham are preserved. The great thoughts of Webster justify, in the estimation of the reader, the fame he enjoyed with his own generation. The readers of Fisher Ames—alas, too few—can well comprehend the spell which persuaded an angry and reluctant majority to save the treaty to which the nation had pledged its faith, and, perhaps, the life of the nation itself. With these exceptions, the number of American orators who will live in history as orators can be counted on the fingers of one hand.

I have never supposed myself to possess this gift. The instruction which I had in my youth, especially that at Harvard, either in composition or elocution, was, I think, not only no advantage, but a positive injury. Besides the absence of good training, I had an awkward manner, and a harsh voice. Until quite late in life I never learned to man-

age so that I could get through a long speech without serious irritation of the throat. But I have had good opportunity to hear the best public speaking of my time. I have heard in England, on a great field day in the House of Commons, Palmerston, Lord John Russell, and John Bright, and, later, Disraeli, Gladstone, and Bernal Osborne. I have heard Spurgeon, and Bishop Wilberforce, and Dr. Guthrie in the pulpit.

At home I have heard a good many times Daniel Webster, Edward Everett, Rufus Choate, Robert C. Winthrop, John P. Hale, Wendell Phillips, Charles Sumner, Richard H. Dana, Ralph Waldo Emerson, James G. Blaine, Lucius Q. C. Lamar, James A. Garfield, William McKinley, William M. Evarts, Benjamin F. Thomas, Pliny Merrick, Charles Devens, Nathaniel P. Banks, and, above all, Kossuth; and in the pulpit, James Walker, Edwards A. Park, Mark Hopkins, Edward Everett Hale, George Putnam, Starr King, and Henry W. Bellows. So, perhaps, my experience and observation, too late for my own advantage, may be worth something to my younger readers.

I am not familiar with the books which have been lately published which give directions for public speaking. So I dare say that what I have to advise is already well known to young men, and that all I can say has been said much better. But I will give the result of my own experience and observation.

In managing the voice, the speaker when he is engaged in earnest conversation, commonly and naturally falls into the best tone and manner for public speaking. Suppose you are sitting about a table with a dozen friends, and some subject is started in which you are deeply interested. You engage in an earnest and serious dialogue with one of them at the other end of the table. You are perfectly at ease, not caring in the least for your manner or tone of voice, but only for your thought. The tone you adopt then will ordinarily be the best tone for you in public speaking. You can, however, learn from teachers or friendly critics to avoid any harsh or disagreeable fashion of speech that you may have fallen into, and that may be habitual to you in private conversation.

Next. Never strain your vocal organs by attempting to fill spaces which are too large for you. Speak as loudly and distinctly as you can do easily, and let the most distant portions of your audience go. You will find in that way very soon that your voice will increase in compass and power, and you will do better than by a habit of straining the voice beyond its natural capacity. Be careful to avoid falsetto. Shun imitating the tricks of speech of other orators, even of famous and successful orators. These may do for them, but not for you. You will do no better in attempting to imitate the tricks of speech of other men in public speaking than in private speaking.

Never make a gesture for the sake of making one. I believe that most of the successful speakers whom I know would find it hard to tell you whether they themselves make gestures or not, they are so absolutely unconscious in the matter. But with gestures as with the voice, get teachers or friendly critics to point out to you any bad habit you may fall into. I think it would be well if our young public speakers, especially preachers, would have competent instructors and critics among their auditors, after they enter their profession, to give them the benefit of such observations and counsel as may be suggested in that way. If a Harvard professor of elocution would retain his responsibility for his pupils five or ten years after they got into active life he would do a great deal more good than by his instruction to undergraduates.

So far we have been talking about mere manner. The matter and substance of the orator's speech must depend upon the intellectual quality of the man.

The great orator must be a man of absolute sincerity. Never advocate a cause in which you do not believe, or affect an emotion you do not feel. No skill or acting will cover up the want of earnestness. It is like the ointment of the hand which bewrayeth itself.

I shall be asked how I can reconcile this doctrine with the practice of the law. It will be said the advocate must often defend men whom he believes to be guilty, or argue to the court propositions he believes to be unsound. This objec-

tion will disappear if we consider what exactly is the function of the advocate in our system of administering justice.

I suppose it is needless to argue to persons of American or English birth that our system of administering justice is safer for the innocent and, on the whole, secures the punishment of guilt and secures private right better than any other that now exists or that ever existed among men. The chief distinction of the system we have inherited from England consists in two things: first, the function of the advocate, and second, that cases are decided not upon belief, but upon proof. It has been found that court or jury are more likely to get at truth if they have the aid of trained officers whose duty it shall be to collect and present all the arguments on each side which ought to be considered before the court or jury reach the decision. The man who seems clearly guilty should not be condemned or punished unless every consideration which may tend to establish innocence or throw doubt upon guilt has been fully weighed. The unassisted tribunal will be quite likely to overlook these considerations. Public sentiment approves the judgment and the punishment in the case of John W. Webster. But certainly he should never have been convicted without giving the fullest weight to his previous character and to the slightness of the temptation to the commission of such a crime, to the fact that the evidence was largely circumstantial, to the doubt of the identity of the body of the victim, and to the fact that the means or instrument of the crime which ordinarily must be alleged and proved in cases of murder could not be made certain, and could not be set forth in the indictment. The question in the American or English court is not whether the accused be guilty. It is whether he be shown to be guilty, by legal proof, of an offence legally set forth. It is the duty of the advocate to perform his office in the mode best calculated to cause all such considerations to make their due impression. It is not his duty or his right to express or convey his individual opinion. On him the responsibility of the decision does not rest. He not only has no right to accompany the statement of his argument with any assertion as to his individual belief, but I think the most experienced observers will

agree that such expressions, if habitual, tend to diminish and not to increase the just influence of the lawyer. There never was a weightier advocate before New England juries than Daniel Webster. Yet it is on record that he always carefully abstained from any positiveness of assertion. He introduced his weightiest arguments with such phrases as, "It will be for the jury to consider," "The Court will judge," "It may, perhaps, be worth thinking of, gentlemen," or some equivalent phrase by which he kept scrupulously off the ground which belonged to the tribunal he was addressing. The tricks of advocacy are not only no part of the advocate's duties, but they are more likely to repel than to attract the hearers. The function of the advocate in the court of justice, as thus defined and limited, is tainted by no insincerity or hypocrisy. It is as respectable, as lofty, and as indispensably necessary as that of the judge himself.

In my opinion, the two most important things that a young man can do to make himself a good public speaker are:

First. Constant and careful written translations from Latin or Greek into English.

Second. Practice in a good debating society.

It has been said that all the greatest Parliamentary orators of England are either men whom Lord North saw, or men who saw Lord North—that is, men who were conspicuous as public speakers in Lord North's youth, his contemporaries, and the men who saw him as an old man when they were young themselves. This would include Bolingbroke and would come down only to the year of Lord John Russell's birth. So we should have to add a few names, especially Gladstone, Disraeli, John Bright, and Palmerston. There is no great Parliamentary orator in England since Gladstone died. I once, a good many years ago, studied the biographies of the men who belonged to that period who were famous as great orators in Parliament or in Court, to find, if I could, the secret of their power. With the exception of Lord Erskine and of John Bright, I believe every one of them trained himself by careful and constant translation from Latin or Greek, and frequented a good debating society in his youth.

Brougham trained himself for extemporaneous speaking in the Speculative Society, the great theatre of debate for the University of Edinburgh. He also improved his English style by translations from Greek, among which is his well-known version of the "Oration on the Crown."

Canning's attention, while at Eton, was strongly turned to extemporaneous speaking. They had a debating society, in which the Marquis of Wellesley and Charles Earl Grey had been trained before him, in which they had all the forms of the House of Commons—Speaker, Treasury benches, and an Opposition. Canning also was disciplined by the habit of translation.

Curran practised declamation daily before a glass, reciting passages from Shakespeare and the best English orators. He frequented the debating societies which then abounded in London. He failed at first, and was ridiculed as "Orator Mum." But at last he surmounted every difficulty. It was said of him by a contemporary: "He turned his shrill and stumbling brogue into a flexible, sustained, and finely modulated voice; his action became free and forcible; he acquired perfect readiness in thinking on his legs; he put down every opponent by the mingled force of his argument and wit; and was at last crowned with the universal applause of the society and invited by the president to an entertainment in their behalf." I am not sure that I have seen, on any good authority, that he was in the habit of writing translations from Latin or Greek, but he studied them with great ardor and undoubtedly adopted, among the methods of perfecting his English style, the custom of students of his day of translation from these languages.

Jeffrey joined the Speculative Society, in Edinburgh, in his youth. His biographer says that it did more for him than any other event in the whole course of his education.

Chatham, the greatest of English orators, if we may judge by the reports of his contemporaries, trained himself for public speaking by constant translations from Latin and Greek. The education of his son, the younger Pitt, is well known. His father compelled him to read Thucydides into English at sight, and to go over it again and again, until

he had got the best possible rendering of the Greek into English.

Macaulay belonged to the Cambridge Union, where, as in the society of the same name at Oxford, the great topics of the day were discussed by men, many of whom afterward became famous statesmen and debaters in the Commons.

Young Murray, afterward Lord Mansfield, translated Sallust and Horace with ease; learned great part of them by heart; could converse fluently in Latin; wrote Latin prose correctly and idiomatically, and was specially distinguished at Westminster for his declamations. He translated every oration of Cicero into English and back again into Latin.

Fox can hardly have been supposed to have practised much in debating societies, as he entered the House of Commons when he was nineteen years old. But it is quite probable that he was drilled by translations from Latin and Greek into English; and in the House of Commons he had in early youth the advantage of the best debating society in the world. It is said that he read Latin and Greek as easily as he read English. He himself said that he gained his skill at the expense of the House, for he had sometimes tasked himself during the entire session to speak on every question that came up, whether he was interested in it or not, as a means of exercising and training his faculties. This is what made him, according to Burke, "rise by slow degrees to be the most brilliant and accomplished debater the world ever saw."

Sir Henry Bulwer's "Life of Palmerston" does not tell us whether he was trained by the habit of writing translations or in debating societies. But he was a very eager reader of the classics. There is little doubt, however, considering the habit of his contemporaries at Cambridge, and that he was ambitious for public life, and represented the University of Cambridge in Parliament just after he became twenty-one, that he belonged to a debating society and that he was drilled in English composition by translation from the classics.

Gladstone was a famous debater in the Oxford Union, as is well known, and was undoubtedly in the habit of writing

translations from Greek and Latin, of which he was always so passionately fond. He says in his paper on Arthur Hallam that the Eton debating club known as the Society supplied the British Empire with four Prime Ministers in fourscore years.

The value of the practice of translation from Latin or Greek into English, in getting command of good English style, in my judgment, can hardly be stated too strongly. The explanation is not hard to find. You have in these two languages and especially in Latin, the best instrument for the most precise and most perfect expression of thought. The Latin prose of Tacitus and Cicero, the verse of Virgil and Horace, are like a Greek statue, or an Italian cameo—you have not only exquisite beauty, but also exquisite precision. You get the thought into your mind with the accuracy and precision of the words that express numbers in the multiplication table. Ten times one are ten—not ten and one one-millionth. Having got the idea into your mind with the precision, accuracy, and beauty of the Latin expression, you are to get its equivalent in English. Suppose you have knowledge of no language but your own. The thought comes to you in the mysterious way in which thoughts are born, and struggles for expression in apt words. If the phrase that occurs to you does not exactly fit the thought, you are almost certain, especially in speaking or rapid composition, to modify the thought to fit the phrase. Your sentence commands you, not you the sentence. The extemporary speaker never gets, or easily loses, the power of precise and accurate thinking or statement, and rarely attains a literary excellence which gives him immortality. But the conscientious translator has no such refuge. He is confronted by the inexorable original. He cannot evade or shirk. He must try and try and try again until he has got the exact thought expressed in its English equivalent. This is not enough. He must get an English expression if the resources of the language will furnish it, which will equal as near as may be the dignity and beauty of the original. He must not give you pewter for silver, or pinchbeck for gold, or mica for diamond. This practice will soon give him

ready command of the great riches of his own noble English tongue. It will give a habitual nobility and beauty to his own style. The best word and phrase will come to him spontaneously when he speaks and thinks. The processes of thought itself will grow easier. The orator will get the affluence and abundance which characterize the great Italian artists of the Middle Ages, who astonish us as much by the amount and variety of their work as by its excellence.

The value of translation is very different from that of original written composition. Cicero says:

"Stilus optimus et præstantissimus dicendi effector ac magister."

Of this I am by no means sure. If you write rapidly you get the habit of careless composition. If you write slowly you get the habit of slow composition. Each of these is an injury to the style of the speaker. He cannot stop to correct or scratch out. Cicero himself in a later passage states his preference for translation. He says that at first he used to take a Latin author, Ennius or Gracchus, and get the meaning into his head, and then write it again. But he soon found that in that way if he used again the very words of his author he got no advantage, and if he used other language of his own, the author had already occupied the ground with the best expression, and he was left with the second best. So he gave up the practice and adopted instead that of translating from the Greek.

But to go back to what makes an orator. As I have said, his object is to excite the emotions which, being excited, will be most likely to impel his audience to think or act as he desires. He must never disgust them, he must never excite their contempt. He can use to great advantage the most varied learning, the profoundest philosophy, the most compelling logic. He must master the subject with which he has to deal, and he must have knowledge adequate to illustrate and adorn it. When every other faculty of the orator is acquired, it sometimes almost seems as if voice were nine-

tenths, and everything else but one-tenth, of the consummate orator. It is impossible to overrate the importance to his purpose of that matchless instrument, the human voice.

The most fastidious critic is by no means the best judge, seldom even a fairly good judge, of the public speaker. He is likely to be a stranger to the emotion which the orator inspires and excites. He is likely to fall into mistakes like that which Goldwin Smith makes about Patrick Henry. Mr. Smith ridicules Henry's speech and action and voice. The emotion which the great Virginian stirred in the breasts of his backwoodsmen seems very absurd to this cultured Englishman. The bowings and changes of countenance and gesticulating of the orator seem to him like the cheapest acting. Yet to us who understand it, it does not seem that Patrick Henry in the old church at Richmond need yield the palm to Chatham in St. Stephen's Chapel, either for the grandeur of his theme or of his stage, or the sublimity of his eloquence.

Matthew Arnold had the best pair of intellectual eyes of our time. But he sometimes made a like mistake as a critic of poetry. He speaks slightingly of Emerson's Fourth of July Ode—

> Oh tenderly the haughty day
> Fills his blue urn with fire;
> One morn is in the mighty heaven,
> And one in our desire.

What did the Englishman know of the Fourth of July emotion which stirred all America in the days when the country had just escaped destruction, and was entering upon its new career of freedom and of glory? What could he understand of that feeling, full of the morning and of the springtime, which heard the cannon boom and the bells ring, with stirring and quickened pulse, in those exultant days? Surely there never was a loftier stroke than that with which the New England poet interpreted to his countrymen the feeling of that joyous time—the feeling which is to waken again when the Fourth of July comes round on many anniversaries:

Oh tenderly the haughty day
Fills his blue urn with fire;
One morn is in the mighty heaven,
And one in our desire.

It is often said that if a speech read well it is not a good speech. There may be some truth in it. The reader cannot, of course, get the impression which the speaker conveys by look and tone and gesture. He lacks that marvellous influence by which in a great assembly the emotion of every individual soul is multiplied by the emotion of every other. The reader can pause and dwell upon the thought. If there be a fallacy, he is not hurried away to something else before he can detect it. So, also, more careful and deliberate criticism will discover offences of style and taste which pass unheeded in a speech when uttered. But still the great oratoric triumphs of literature and history stand the test of reading in the closet, as well as of hearing in the assembly. Would not Mark Antony's speech over the dead body of Cæsar, had it been uttered, have moved the Roman populace as it moves the spectator when the play is acted, or the solitary reader in his closet? Does not Lord Chatham's "I rejoice that America has resisted" read well? Do not Sheridan's great perorations, and Burke's, in the Impeachment of Warren Hastings, read well? Does not "Liberty and Union, Now and Forever!" read well? Does not "Give me Liberty or Give me Death!" read well? Does not Fisher Ames's speech for the treaty read well? Do not Everett's finest passages read well?

There are examples of men of great original genius who have risen to lofty oratory on some great occasion who had not the advantage of familiarity with any great author. But they are not only few in number, but the occasions are few when they have risen to a great height. In general the orator, whether at the Bar, or in the pulpit, or in public life, who is to meet adequately the many demands upon his resources, must get familiarity with the images and illustrations he wants, and the resources of a fitting diction, by soaking his mind in some great authors which will alike satisfy

and stimulate his imagination, and supply him with a lofty expression. Of these I suppose the best are, by common consent, the Bible, Shakespeare, and Milton. It is a maxim that the pupil who wishes to acquire a pure and simple style should give his days and nights to Addison. But there is a lack of strength and vigor in Addison, which perhaps prevents his being the best model for the advocate in the court-house or the champion in a political debate. I should rather, for myself, recommend Robert South to the student. If the speaker, whose thought have weight and vigor in it, can say it as South would have said it, he may be quite sure that his weighty meaning will be expressed alike to the mind of the people and the apprehension of his antagonist.

There is one great difference between the condition of the American orator and that of the orator of antiquity. The speaker, in the old time, addressed an audience about to act instantly upon the emotions or convictions he had himself caused. Or he spoke to a Judge who was to give no reason for his opinion. The sense of public responsibility scarcely existed in either. The speech itself perished with the occasion, unless, as in some few instances, the orator preserved it in manuscript for a curious posterity. Even then the best of them had discovered that not eloquence, but wisdom, is the power by which states grow and flourish.

"Omnia plena consiliorum, inania verborum.

"Quid est tam furiosum quam verborum vel optimorum atque ornatissimorum sonitus inanis nulla subjecta sententia nec scientia?"

Cicero's oratory is to excite his hearers, whether Judges or popular assembly, for the occasion. Not so in general with our orator. The auditor is ashamed of excitement. He takes the argument home with him: He sleeps on it. He reads it again in the newspaper report. He hears and reads the other side. He discusses with friends and antagonists. He feels the responsibility of his vote. He expects to have to justify it himself. Even the juryman hears the sober statement of the Judge, and talks the case over with his associates of the panel in the quiet seclusion of the jury-room.

The Judge himself must state the reasons for his opinions, which are to be read by a learned and critical profession and by posterity. The speaker's argument must be sounded, and rung, and tested, and tried again and again, before the auditor acts upon it. Our people hear some great orators as they witness a play. The delight of taste, even intellectual gratification, caused by what is well said, is one thing. Conviction is quite another. The printing-press and the reporter, the consultation in the jury-room, the reflection in the Judge's chamber, the delay of the election to a day long after the speech, are protections against the mischief of mere oratory, which the ancients did not enjoy.

I heard a debate in the House of Commons in 1860, on the paper duties, in which Lord John Russell, Palmerston, Gladstone, and John Bright took part. Gladstone's part was not very prominent. I now remember little that he said. His image, as it then appeared, is effaced by his later appearance on a much greater occasion. Bright spoke admirably, both in manner and matter. He was an Independent, though giving general support to the measures of the Government, in which Palmerston and Lord Russell were the leaders. He complained bitterly of their acquiescence in what he thought the unconstitutional attitude of the House of Lords, in refusing to consent to the abolition of the paper duties, for which the House of Commons had voted. But the Government, though they had tried to abolish the duty, were very glad to hold on to the revenue. Bright had none of the English hesitation, and frequent punctuation of sentences with—"er"—"er"—which has led some one, speaking of English orators, to say that "to err" is human. He reminded me in general, in look, voice, and manner, of the late Richard H. Dana, although he sometimes threw more passion and zeal into his speech than Dana ever indulged. Periods followed each other in easy and rapid flow. He had a fine voice and delivery, easily filling the hall from his place below the gangway.

Palmerston, in his jaunty and off-hand way, rebuked Bright for desiring to make the House of Commons adopt a

resolution which would only show its own helplessness. On the whole, he seemed to me to get the better of the debate. Bright could not persuade the House, or the people of England, to make a great constitutional question out of the paper duties, especially after the powerful speech of Lord Lyndhurst, who, then more than ninety years old, argued for the side of the Lords with a power that no other speaker on the subject rivalled.

I heard Gladstone again in 1871, when there was a great struggle between him and Disraeli over the Parliamentary and Municipal Elections Bill. I visited the House with Thomas Hughes, to whom I was indebted for much courtesy while in London, and had a seat on the floor just below the gallery, where a few strangers are, or were then, admitted by special card from the Speaker.

Bernal Osborne, Sir Michael Hicks-Beach, Sir Stafford Northcote, Gladstone, and Disraeli took part in the debate. The bill was introduced by Mr. Gladstone's Government. The question that night was on a motion to strike out the provision for the secret ballot; so the opponents of the Government had the close in support of the motion. The report of Hansard purports to be in the first person. But I can testify from memory that it is by no means verbally accurate. I have no doubt the speeches were taken down in short-hand. The phonetic system was then used. But the report seems to be about like those which our good short-hand reporters used to make before that invention. The speeches are well worth studying by a person who wishes to get an idea of the intellectual and literary quality of these champions. There is no great passage in any one of them. But the capacity and quality of power appear distinctly. Osborne was full of a shrewd and delightful wit, without the vitriolic flavor which often appears in the sarcasm of Disraeli. Gladstone showed his power of elevating the discussion to a lofty plane, which his opponent never reached, although Disraeli launched at him many a keen shaft from below. Mr. Hughes sat by me most of the night, and occasionally brought and introduced to me some eminent person whom he thought I would like to know.

The members of our National House of Representatives, however turbulent or disorderly, never would submit to the fashion of treating a speaker whom they do not want to hear, which prevails in the House of Commons. When Mr. Gladstone got through, the night was far spent, and the House evidently wanted to hear Disraeli, then vote and go home. Mr. Plunket, a member for the University of Dublin, who seemed an intelligent and sensible man, rose, wishing to correct a statement of Mr. Gladstone's, which he thought had done him an injustice. Disraeli rose about the same time, but bowed and gave way. The House did not like it. Poor Plunket's voice was drowned in the storm of shouts—"Sit down. Sit down. Dizzy, Dizzy," in which my friend, Mr. Hughes, although of Gladstone's party, joined at the top of his lungs. I think the Bedlam lasted five minutes. But Plunket stood his ground and made his correction.

Although Bernal Osborne was a man of great wit and sense, and Sir Stafford Northcote and Sir Michael Hicks-Beach were then, as the latter is now, very eminent characters, yet the only speakers who belonged to the rank of the great orators were Gladstone and Disraeli. I will not undertake to add another description of Gladstone to the many with which every reader of mine is thoroughly familiar. The late Dr. Bellows resembled him very nearly, both in his way of reasoning and his manner of speech. Persons who have heard Dr. Bellows at his best will not deem this comparison unworthy.

Gladstone was terribly in earnest. He began his speech by a compliment to Northcote, his opponent, for whom he had shown his esteem by sending him to the United States as one of the Joint High Commission to make the Alabama Treaty. But when Mr. Gladstone was well under way, Sir Stafford interposed a dissent from something he said by calling out, "No, no"—a very frequent practice in the House. Gladstone turned upon him savagely, with a tone of anger which I might almost call furious: "Can the gentleman tolerate no opinion but his own, that he interjects his audible contradiction into the middle of my sentence?" The House evidently did not like it. Hughes, who agreed with Glad-

stone, said to me: "What a pity it is that he cannot control his temper; that is his great fault."

There are no passages in this speech of Gladstone that can be cited as among the best examples of the great style of the orator. But there are several that give a good idea of his manner, and show something of the argument in two or three sentences: "I am not at all ashamed of having said, and I say it again, that this is a choice of evils. I do not say that the proposal for a secret ballot is open to no objections whatever. I admit that open voting has its evils as well as its merits. One of these merits is that it enables a man to discharge a noble duty in the noblest possible manner. But what are its demerits? That by marking his vote you expose the voter to be tempted through his cupidity and through his fears. We propose, by secret voting, to greatly diminish the first of these, and we hope to take away the second. We do not believe that the disposition to bribe can operate with anything like its present force when the means of tracing the action of the man bribed are taken away, because men will not pay for that they do not know they will ever receive."

"I think it is too late for the honorable gentleman to say, 'We are passing through an experiment; wait for more experiment.'" "We have already been debating this subject for forty years; we have plenty of time on our hands; it is a Godsend to have anything to fill up our vacant hours; and therefore let us postpone the subject in order that it may be dealt with in future years."

The great quality of Gladstone, as of Sumner, is his profound seriousness. He makes the impression on his hearers, an impression made, but not so strongly, upon his readers, that the matter he is discussing is that upon which the foundations of heaven and earth rest.

It would be a great mistake to hold Disraeli cheap. He turned the tables upon Osborne, who had gone into several, what Disraeli called, archæological details, with respect to the antiquity of the ballot, and had cited a proclamation of Charles I. prohibiting the ballot in all corporations, either in the city of London or elsewhere, which Disraeli said "was

done with the admirable view of identifying the opinions of those who sit on this side of the House with the political sentiments of that monarch. But there was another assertion of the principle that the ballot should be open that the gentleman has not cited. That occurred in the most memorable Parliament that ever sat in England—the Long Parliament. . . . They wished it therefore to be exercised, not to satisfy the self-complacency of the individual, but with due respect for common-sense and the public opinion of the country, and influenced by all those doctrines and all that discipline of party which they believed to be one of the best securities for public liberty."

Gladstone showed in his speech the profounder reflection on the general subject, the more philosophy, and the intenser earnestness; Disraeli showed quickness of wit, a ready command of his resources, ability for subtle distinctions, and glimpses of his almost Satanic capacity for mocking and jeering. He describes Mr. Gladstone most felicitously as "inspired by a mixture of genius and vexation." He speaks of his majority as a "mechanical majority, a majority the result of heedlessness of thought on the part of members who were so full of other questions that they gave pledges in favor of the ballot without due consideration."

He said: "There is a celebrated river, which has been the subject of political interest of late, and with which we are all acquainted. It rolls its magnificent volume, clear and pellucid, in its course; but it never reaches the ocean; it sinks into mud and morass. And such will be the fate of this mechanical majority. The conscience of the country is against it. It is an old-fashioned political expedient; it is not adapted to the circumstances which we have to encounter in the present, and because it has no real foundation of truth or policy, it will meet with defeat and discomfiture."

Gladstone had, what is quite rare, and what no famous American orator that I now think of, except Choate and Evarts, have had—a tendency to diffuse and somewhat involved speech, and at the same time a gift of compact epigrammatic utterance on occasions. When Mr. Evarts, who

was my near relative, and a man with whom I could take a liberty, came into the Senate, I said to him that we should have to amend the rules so that a motion to adjourn would be in order in the middle of a sentence; to which he replied that he knew of nobody in this country, who objected to long sentences, except the criminal classes.

Gladstone was the last of a school of oratory, and the last of our time—I hope not for all time—of a school of statesmen. When he entered upon a discussion in Parliament, or on the hustings, he elevated it to the highest possible plane. The discussion became alike one of the highest moral principles and the profoundest political philosophy. He seemed to be speaking as our statesmen of the Revolutionary time, and the time of framing our Constitution. He used to speak to all generations alike. What he had to say would have been true and apt and fit to be uttered in the earlier days of Athens or of Rome, and true and apt and fit to be uttered for thousands of years to come. He had, in a large measure, a failing which all Englishmen have, and always had: the notion that what is good for England is good for humanity at large. His morality and his statesmanship were insular. Still it was a lofty morality and a lofty ideal statesmanship. It was sincere. What he said, that he believed. It came straight from his heart, and he kindled in the bosoms of his listeners the ardor of his own heart. He was not afraid of his ideals.

I heard Dr. Guthrie in Edinburgh in 1860. It was a hot day. My companion was just getting well from a dangerous attack of bleeding at the lungs. We made our way with difficulty into the crowded church. The people were, almost all of them, standing. We were obliged, by my friend's condition, to get out again before the sermon. I remember, however, the old man's attitude, and his prayer in the racy, broad Scotch, the most tender, pathetic, and expressive language on earth for the deeper emotions as well as for humor. I wonder if my readers have ever seen the version of the Psalms—

"Frae Hebrew Intil Scottis," by P. Hately Waddell, LL.D., Minister, Edinburgh, 1891.

If not, and they will get it, a new delight is in store for them, and they will know something of the diction of Dr. Guthrie.

He once began a prayer, "O Lord, it is a braw thing to loe ye. But it is a better (bitter) thing to hate ye."

The beauty of this dialect is that while it is capable alike of such tenderness, and such lofty eloquence, and such exquisite and delicate humor, it is, like our Saxon, incapable of falsetto, or of little pomposities.

I heard Lyman Beecher, then a very old man, before a meeting of the members of the Massachusetts Legislature in 1852, when the measure known as the Maine Liquor Law was pending. He bore unmistakable marks of advanced age. But there were one or two passages that showed the power of the orator, one especially in which he described the beauty and delight of our homes, and intemperance threatening them with its waves like a great sea of fire.

I saw Henry Ward Beecher several times in private, and had pleasant talks with him. But I am sorry to say I never heard him speak, so far as I can now remember, on any occasion when he put forth his power. But if half that is told of his speeches, during the Civil War, some of them to hostile and angry audiences, be true, he was a consummate master. One story is told of him which I suppose is true, and, if it be true, ranks him as one of the greatest masters of his art that ever lived. It is said that he was speaking to a great crowd in Birmingham, or perhaps Liverpool, which constantly goaded him with hostile interruptions, so that he had great difficulty in getting on. At last one fellow provoked the cheers and applause of the audience by crying out—"Why didn't you put down the Rebellion in sixty days as you said you would?" Beecher paused a moment until they became still, in their eagerness to hear his reply, and then hurled back—"We should if they had been Englishmen." The fierce, untamed animal hesitated a moment between anger and admiration, and then the English love of fair play and pluck prevailed, and the crowd cheered him and let him go on.

But any man who reads Beecher's delightful "Letters from the White Mountains," or some of his sermons, and imagines his great frame, and far-sounding voice, will get a conception of his power to play on the feelings of men, of his humor, and pathos, and intense conviction, and rapidity in passing from one emotion to another, and will understand him.

I heard Rufus Choate a great many times. I heard nearly all the speeches given in Brown's Life; and I heard him a great many times at the Bar, both before juries and the full Court. He is the only advocate I ever heard who had the imperial power which would subdue an unwilling and hostile jury. His power over them seemed like the fascination of a bird by a snake. Of course, he couldn't do this with able Judges, although all Judges who listened to him would, I think, agree that he was as persuasive a reasoner as ever lived. But with inferior magistrates and juries, however intelligent, however determined they were in a made-up opinion, however on their guard against the charmer, he was almost irresistible. There are very few important cases recorded that Choate lost. Non supplex, sed magister aut dominus videretur esse judicum.

Choate's method was pure persuasion. He never appealed to base motives, nor tried to awake coarse prejudices or stormy passions. He indulged in no invective. His wit and sarcasm and ridicule amused the victim almost as much as it amused the bystander. He had the suaviloquentia which Cicero attributes to Cornelius. There was never a harsh note in his speech.

Latrantur enim jam quidam oratores, non loquuntur.

When he was confronted with some general rule, or some plain fact, he had a marvellous art of subtle distinction. He showed that his client, or witness, or proposition, belonged to a class of itself. He invested it with a distinct and intense personality. He held up his fact or his principle before the mind of the Court and the jury. He described and pictured it. He brought out in clear relief what distinguished it from any other fact or proposition whatever. If

necessary, he would almost have made a jury, before he was through, think the Siamese twins did not look alike, and possibly that they never could have been born of the same parents.

He had a voice without any gruff or any shrill tones. It was like a sweet, yet powerful flute. He never strained it or seemed to exert it to its fullest capacity. I do not know any other public speaker whose style resembled his in the least. Perhaps Jeremy Taylor was his model, if he had any model. The phraseology with which he clothed some commonplace or mean thought or fact, when he was compelled to use commonplace arguments, or to tell some common story, kept his auditors ever alert and expectant. An Irishman, who had killed his wife, threw away the axe with which Choate claimed the deed was done, when he heard somebody coming. This, in Choate's language, was "the sudden and frantic ejaculation of the axe." Indeed his speech was a perpetual surprise. Whether you liked him or disliked him, you gave him your ears, erect and intent. He used manuscript a great deal, even in speaking to juries. When a trial was on, lasting days or weeks, he kept pen, ink, and paper at hand in his bedroom, and would often get up in the middle of the night to write down thoughts that came to him as he lay in bed. He was always careful to keep warm. It was said he prepared for a great jury argument by taking off eight great coats and drinking eight cups of green tea.

When I was a young lawyer in Worcester I had something to do before the Court sitting in the fourth story of the old stone court house in Boston. I finished my business and had just time to catch the train for home. As I came down the stairs I passed the door of the court-room where the United States Court was sitting. The thick wooden door was open, and the opening was closed by a door of thin leather stretched on a wooden frame. I pulled it open enough to look in, and there, within three feet of me, was Choate, addressing a jury in a case of marine insurance, where the defence was the unseaworthiness of the vessel. I had just time to hear this sentence, and shut the door and

hurry to my train: "She went down the harbor, painted and perfidious—a coffin, but no ship."

I hear now, as if still in the eager throng, his speech in Faneuil Hall during the Mexican War. He demanded that we should bring back our soldiers to the line we claimed as our rightful boundary, and let Mexico go. He said we had done enough for glory, and that we had humiliated her enough.

"The Mexican maiden, as she sits with her lover among the orange-groves, will sing to her guitar the story of these times—'Ah, woe is me, Alhama,' for a thousand years to come."

Choate, like other good orators, and like some great poets, notably Wordsworth, created the taste which he satisfied. His dramatic action, his marvellous and strange vocabulary, his oriental imagination, his dressing the common and mean things of life with a poetic charm and romance, did not at once strike favorably the taste of his Yankee audiences. Webster and Everett seem to have appreciated him from the first. But he was, till he vindicated his title to be a great lawyer, rather a thorn in the flesh of Chief Justice Shaw, of whose consternation and amazement, caused by the strange figure that appeared in his court-room, many queer stories used to be told. But the young men and the people liked him.

"Non probantur hæc senibus—sæpe videbam cum invidentem tum etiam irascentem stomachantem Philippum—sed mirantur adulescentes multitudo movetur."

It was a curious sight to see on a jury twelve hard-headed and intelligent countrymen—farmers, town officers, trustees, men chosen by their neighbors to transact their important affairs—after an argument by some clear-headed lawyer for the defence, about some apparently not very doubtful transaction, who had brought them all to his way of thinking, and had warned them against the wiles of the charmer, when Choate rose to reply for the plaintiff—to see their look of confidence and disdain—"You needn't try your wiles upon

me." The shoulder turned a little against the speaker—the averted eye—and then the change; first, the changed posture of the body; the slight opening of the mouth; then the look, first, of curiosity, and then of doubt, then of respect; the surrender of the eye to the eye of the great advocate; then the spell, the charm, the great enchantment—till at last, jury and audience were all swept away, and followed the conqueror captive in his triumphal march.

He gesticulated with his whole body. Wendell Phillips most irreverently as well as most unjustly compared him to a monkey in convulsions. His bowings down and straightening himself again were spoken of by another critic, not unfriendly, as opening and shutting like a jack-knife. His curly black hairs seemed each to have a separate life of its own. His eyes shone like coals of fire. There is a passage of Everett's which well describes Choate, and is also one of the very best examples of Everett, who, with all his fertility of original genius, borrowed so much, and so enriched and improved everything that he borrowed. Cicero said of Antonius:

"Omnia veniebant Antonio in mentem; eaque suo quæque loco, ubi plurimum proficere et valere possent, ut ab imperatore equites pedites levis armatura, sic ab illo in maxume opportunis orationis partibus conlocabantur."

Now see what Everett does with this thought in his eulogy, spoken in Faneuil Hall, the week after Choate's death:

"He is sometimes satisfied, in concise epigrammatic clauses, to skirmish with his light troops, and drive in the enemy's outposts. It is only on fitting occasions, when great principles are to be vindicated, and solemn truths told, when some moral or political Waterloo or Solferino is to be fought, that he puts on the entire panoply of his gorgeous rhetoric. It is then that his majestic sentences swell to the dimensions of his majestic thought; then it is that we hear afar off the awful roar of his rifled ordnance; and when he has stormed the heights, and broken the centre, and trampled the squares, and turned the staggering wings of the adversary, that he

sounds his imperial clarion along the whole line of battle, and moves forward with all his hosts, in one overwhelming charge."

One of the most remarkable advocates of my day was Sidney Bartlett. He seldom addressed juries, and almost never public assemblies. He was a partner of Chief Justice Shaw before 1830. He argued cases before the Supreme Court of the United States and before the Supreme Court of Massachusetts after he was ninety. He cared for no other audience. He had a marvellous compactness of speech, and a marvellous sagacity in seeing the turning-point of a great question. He found the place where the roads diverged, got the Court's face set in the right direction, and then stopped. He would argue in ten or fifteen minutes a point where some powerful antagonist like Curtis or Choate would take hours to reply. I once told him that his method of argument was to that of ordinary lawyers like logarithms to ordinary mathematics. He seemed pleased with the compliment, and said, "Yes, I know I argue over their heads. The Chief Justice told me he wished I would talk a little longer." I do not know that Bartlett ought to be reckoned among orators. But he had a great power of convincing, and giving intellectual delight to minds capable of appreciating his profound and inexorable logic.

Edward Everett seems to me, on the whole, our best example of the orator, pure and simple. Webster was a great statesman, a great lawyer, a great advocate, a great public teacher. To all these his matchless oratory was but an instrument and incident.

Choate was a great winner of cases, and as relaxation he gave, in the brief vacations of an overworked professional life (he once defined a lawyer's vacation as the time after he has put a question to a witness while he is waiting for an answer), a few wonderful literary and historical addresses. He gave a brief period of brilliant but most unwilling service in each House of Congress. He made some powerful political speeches to popular audiences. But his heart was always in the court-house. No gambler ever hankered for

the feverish delight of the gaming table as Choate did for that absorbing game, half chance, half skill, where twelve human dice must all turn up together one way, or there is no victory.

But Everett is always the orator. He was a clergyman a little while. He was a Greek professor a little while. He was a College President a little while. He was a Minister to England a little while. He was Representative in Congress and Senator. He was Governor of the Commonwealth. In these places he did good service enough to make a high reputation for any other man. Little of these things is remembered now. He was above all things—I am tempted to say, above all men—the foremost American orator in one class.

There is one function of the orator peculiar to our country, and almost wholly unknown elsewhere. That is the giving utterance to the emotion of the people, whether of joy or sorrow, on the occasions when its soul is deeply stirred—when some great man dies, or there is a great victory or defeat, or some notable anniversary is celebrated. This office was filled by other men, on some few occasions by Daniel Webster himself, but by no man better than by Everett. A Town, or City, or State is very human. In sorrow it must utter its cry of pain; in victory, its note of triumph. As events pass, it must pronounce its judgment. Its constant purpose must be fixed and made more steadfast by expression. It must give voice to its love and its approbation and its condemnation. It must register the high and low water mark of its tide, its rising and its sinking in heat and cold. This office Edward Everett, for nearly fifty years, performed for Massachusetts and for the whole country. In his orations is preserved and recorded everything of the emotion of the great hours of our people's history. The camera of his delicate photography has preserved for future generations what passed in the soul of his own in the times that tried the souls of men.

I do not know where he got his exquisite elocution. He went abroad in his youth, and there were good trainers abroad, then. He must have studied thoroughly the speeches of Cicero and the Greek orators. Many casual

phrases in his works, besides many quotations, show his familiarity with Cicero's writings on oratory.

If you would get some faint, far-off conception of him, first look at the best bust or picture of Everett you can find. Imagine the figure with its every movement gentle and graceful. The head and face are suggestive of Greek sculpture. This person sits on the platform with every expression discharged from the face, looking like a plaster image when the artist has just begun his model, before any character or intelligence has been put into it. You think him the only person in the audience who takes no interest whatever in what is going on, and certainly that he expects to have nothing to do with it himself. He is introduced. He comes forward quietly and gracefully. There is a slight smile of recognition of the welcoming applause. The opening sentences are spoken in a soft—I had almost said, a caressing voice, though still a little cold. I suppose it would be called a tenor voice. There was nothing in the least unmanly about Edward Everett. Yet if some woman had spoken in the same tones, you would have not thought them unwomanly.

Illa tanquam cycnea fuit divini hominis vox et oratio.

He has found somewhere in the vast storehouse of his knowledge a transaction exactly like the present, or exactly in contrast with it, or some sentiment of poet or orator which just fits the present occasion. If it be new to his audience, he adds to it a newer delight still by his matchless skill as a narrator—a skill almost the rarest of all talents among public speakers. If it be commonplace and hackneyed he makes it fresh and pleasant by giving in detail the circumstances when it was first uttered, or describes some occasion when some orator has applied it before; or calls attention to its very triteness as giving it added authority. If he wish to express his agreement with the last speaker and "say ditto to Mr. Burke," he tells you when that was said, what was the occasion, and gives you the name of Mr. Kruger, who stood for the representation of Bristol with Burke.

Mr. Everett's stores were inexhaustible. If any speaker have to get ready in a hurry for a great occasion, let him look through the index of the four volumes of Everett's speeches, and he will find matter enough, not only to stimulate his own thought and set its currents running, but to illustrate and adorn what he will say.

But pretty soon the orator rises into a higher plane. Some lofty sentiment, some stirring incident, some patriotic emotion, some play of fancy or wit comes from the brain or heart of the speaker. The audience is hushed to silence. Perhaps a little mist begins to gather in their eyes. There is now an accent of emotion in the voice, though still soft and gentle. The Greek statue begins to move. There is life in the limbs. There has been a lamp kindled somewhere behind the clear and transparent blue eyes. The flexible muscles of the face have come to life now. Still there is no jar or disorder. The touch upon the nerves of the audience is like that of a gentle nurse. The atmosphere is that of a May morning. There is no perfume but that of roses and lilies. But still, gently at first, the warmer feelings are kindled in the hearts of the speaker and hearers. The frame of the speaker is transfigured. The trembling hands are lifted high in air. The rich, sweet voice fills the vast audience chamber with its resonant tones. At last, the bugle, the trumpet, the imperial clarion rings out full and clear, and the vast audience is transported as to another world—I had almost said to a seventh heaven. Read the welcome to Lafayette or the close of the matchless eulogy on that illustrious object of the people's love. Read the close of the oration on Washington. Read the contrast of Washington and Marlborough. Read the beautiful passage where, just before the ocean cable was laid, the rich fancy of the speaker describes—

"The thoughts that we think up here on the earth's surface in the cheerful light of day—clothing ourselves with elemental sparks, and shooting with fiery speed in a moment, in the twinkling of an eye, from hemisphere to hemisphere, far down among the uncouth monsters that wallow in the nether seas, along the wreck-paved floor, through the oozy

dungeons of the rayless deep; the last intelligence of the crops, whose dancing tassels will in a few months be coquetting with the west wind on those boundless prairies, flashing along the slimy decks of old sunken galleons, which have been rotting for ages; messages of friendship and love, from warm, living bosoms, burn over the cold green bones of men and women, whose hearts, once as fond as ours, burst as the eternal gulfs closed and roared over them, centuries ago." Read the passage in the eulogy on Choate where he describes him arming himself in the entire panoply of his gorgeous rhetoric—and you will get some far-away conception of the power of this magician.

One thing especially distinguishes our modern orator from the writer in the closet, where he writes solely for his readers, or where he has prepared his speeches beforehand—that is, the influence of the audience upon him. There is nothing like it as a stimulant to every faculty, not only imagination, and fancy, and reason, but especially, as every experienced speaker knows, memory also. Everything needed seems to come out from the secret storehouses of the mind, even the things that have lain there forgotten, rusting and unused. Mr. Everett describes this in a masterly passage in his Life of Webster. Gladstone states it in a few fine sentences:

"The work of the orator, from its very inception," he says, "is inextricably mixed up with practice. It is cast in the mould offered to him by the mind of his hearers. It is an influence principally received from his audience (so to speak) in vapor, which he pours back upon them in a flood. The sympathy and concurrence of his time is, with his own mind, joint parent of his work. He cannot follow nor frame ideals; his choice is to be what his age would have him, what it requires in order to be moved by him, or else not to be at all."

I heard six of Kossuth's very best speeches. He was a marvellous orator. He seemed to have mastered the whole vocabulary of English speech, and to have a rare gift of choosing words that accurately expressed his meaning, and

he used so to fashion his sentences that they were melodious and delightful to the ear. That is one great gift of oratory, as it is of poetry, or indeed of a good prose style. Why it is that two words or phrases which mean precisely the same thing to the intellect, have so different an effect on the emotions, no man can tell. To understand it, is to know the secret not only of reaching the heart, but frequently of convincing the understanding of men.

Kossuth made a great many speeches, sometimes five or six in a day. He could have had no preparation but the few minutes which he could snatch while waiting for dinner at some house where he was a guest, or late at night, after a hard day's work. But his speeches were gems. They were beautiful in substance and in manner. He was ready for every occasion. When the speaker who welcomed him at Roxbury told him that Roxbury contained no historic spot that would interest a stranger, Kossuth at once answered, "You forget that it is the birthplace of Warren." When old Josiah Quincy, then past eighty, said at a Legislative banquet that he had come to the time—"when the keepers of the house shall tremble, and the strong men shall bow themselves, and the grinders cease because they are few, and those that look out of the windows be darkened, and they shall be afraid of that which is high, and fears shall be in the way," Kossuth interrupted him, "Ah! but that was of ordinary men."

I was a member of the Legislature when Kossuth visited Boston. I heard his address to the House and to the Senate, his reply to the Governor's welcome. I heard him again at the Legislative banquet in Faneuil Hall, and twice in Worcester—on the Common in the afternoon, and at the City Hall in the evening. I shook hands with him and perhaps exchanged a word or two, but of that I have no memory. Afterward I visited him with my wife at Turin in 1892, when he was a few months past ninety. He received me with great cordiality. I spent two hours with him and his sister, Madam Ruttkay. They both expressed great pleasure with the visit, and Madam Ruttkay kissed Mrs. Hoar affectionately when we took leave. Kossuth's beau-

tiful English periods were as beautiful as they were forty years before, at the time of his famous pilgrimage through the United States. His whole conversation related to the destiny of his beloved Hungary. He spoke with great dignity of his own share in the public events which affected his country. There was nothing of arrogance or vanity in his claim for himself, yet in speaking of Francis Joseph, he assumed unconsciously the tone of a superior. He maintained that constitutional liberty could never be permanent where two countries with separate legislatures were under one sovereign. He said the sovereign would always be able to use the military and civil power of one to accomplish his designs against the liberty of the other. The opinion of Kossuth on such a question is entitled to the greatest deference. But I incline to the belief that, while undoubtedly there may be great truth in the opinion, the spirit of liberty will overcome that danger. Hungary and Hungary's chief city seem rapidly to be asserting control in their own affairs and an influence in the Austro-Hungary Empire which no monarch will be able to withstand, and which it is quite likely the royal family will not desire to withstand. In these days monarchs are learning the love of liberty, and I believe in most cases to-day the reigning sovereigns of Europe are eager to promote constitutional government, and prefer the title of Liberator to that of Despot.

I have heard Wendell Phillips speak a great many times. I do not include him in this notice, because, if I did, I ought to defend my estimate of him at considerable length, and to justify it by ample quotation. I think him entitled to the very highest rank as an orator. I do not estimate his moral character highly. I think he exerted very little influence on his generation, and that the influence he did exert was in the main pernicious. I have had copied everything he said, from the time he made his first speech, so far as it is found in the newspapers, and have the volumes in which his speeches are collected. I never had any occasion to complain of him on my own account. So far as I know and believe, he had the kindliest feeling for me until his death, and esteemed my public service much more highly than it deserved. But he

bitterly and unjustly attacked men whom I loved and honored under circumstances which make it impossible for me to believe that his conduct was consistent with common honesty. He seemed never to care for the soundness of his opinion before he uttered it, or for the truth of the fact before he said it, if only he could produce a rhetorical effect. He seemed to like to defame men whom the people loved and honored. Toward the latter part of his life, he seemed to get desperate. If he failed to make an impression by argument, he took to invective. If vinegar would not answer he resorted to cayenne pepper. If that failed, he tried to throw vitriol in the eyes of the men whom he hated. His remedy for slavery was to destroy the country, and to leave the slave to the unchecked will of the South. During Lincoln's great trial, he attacked and vilified him. At the time when nearly every household in the North was mourning for its dead, he tried to persuade the people that Lincoln did not mean to put down the Rebellion. He never gave the people wise counsel, and rarely told them the honest truth. He rarely gave his homage to anybody. When he did, it was to bad men, and not to good men.

There can be no worse influence upon the youth of the Republic than that which shall induce them to approve sentiments, not because they are true, but only because they are eloquently said.

CHAPTER XXXVI

TRUSTS

I HAVE given the best study I could to the grave evil of the accumulation in this country of vast fortunes in single hands, or of vast properties in the hands of great corporations—popularly spoken of as trusts—whose powers are wielded by one, or a few persons. This is the most important question before the American people demanding solution in the immediate future. A great many remedies have been proposed, some with sincerity and some, I am afraid, merely for partisan ends. The difficulty is increased by the fact that many of the evils caused by trusts, or apprehended from them, can only be cured by the action of the States, but cannot be reached by Congress, which can only deal with international or interstate commerce. As long ago as 1890 the people were becoming alarmed about this matter. But the evil has increased rapidly during the last twelve years. It is said that one man in this country has acquired a fortune of more than a thousand million dollars by getting an advantage over other producers or dealers in a great necessary of life in the rates at which the railroads transport his goods to market.

In 1890 a bill was passed which was called the Sherman Act, for no other reason that I can think of except that Mr. Sherman had nothing to do with framing it whatever. He introduced a bill and reported it from the Finance Committee providing that whenever a trust, as it was called, dealt with an article protected by the tariff, the article should be put on the free list. This was a crude, imperfect, and unjust provision. It let in goods made abroad by a foreign trust to compete with the honest domestic manufacturer. If there happened to be an industry employing thousands or

hundreds of thousands of workmen, in which thousands of millions of American capital was invested, and a few persons got up a trust—perhaps importers, for the very purpose of breaking down the American manufacturer—and made the article to a very small extent, all honest manufacturers would be deprived of their protection.

Mr. Sherman's bill found little favor with the Senate. It was referred to the Judiciary Committee of which I was then a member. I drew as an amendment the present bill which I presented to the Committee. There was a good deal of opposition to it in the Committee. Nearly every member had a plan of his own. But at last the Committee came to my view and reported the law of 1890. The House disagreed to our bill and the matter went to a Conference Committee, of which Mr. Edmunds, the Chairman of the Committee, and I, as the member of the Committee who was the author of the bill, were members. The House finally came to our view.

It was expected that the Court, in administering that law, would confine its operation to cases which are contrary to the policy of the law, treating the words "agreements in restraint of trade" as having a technical meaning, such as they are supposed to have in England. The Supreme Court of the United States went in this particular farther than was expected. In one case it held that "the bill comprehended every scheme that might be devised to restrain trade or commerce among the several States or with foreign nations." From this opinion several of the Court, including Mr. Justice Gray, dissented. It has not been carried to its full extent since, and I think will never be held to prohibit the lawful and harmless combinations which have been permitted in this country and in England without complaint, like contracts of partnership which are usually considered harmless. We thought it was best to use this general phrase which, as we thought, had an accepted and well-known meaning in the English law, and then after it had been construed by the Court, and a body of decisions had grown up under the law, Congress would be able to make such further amendments as might be found by experience necessary.

The statute has worked very well indeed, although the Court by one majority and against the very earnest and emphatic dissent of some of its greatest lawyers, declined to give a technical meaning to the phrase "in restraint of trade." But the operation of the statute has been healthy. The Attorney-General has recently given an account of suits in equity by which he has destroyed a good many vast combinations, including a combination of the six largest meat-packing concerns in the country; a combination of railroads which had been restrained from making any rebate or granting any preference whatever to any shipper; and a pooling arrangement between the Southern railroads which denied the right of the shippers interested in the cotton product in the South to prescribe the route over which their goods should pass. He has also brought a suit in equity to prevent the operation of a proposed merger of sundry transcontinental railroads, thereby breaking up a monopoly which affected the whole freight and passenger traffic of the Northwest.

The public uneasiness, however, still continued. The matter was very much discussed in the campaign for electing members of the House of Representatives in the autumn of 1902.

I made two or three careful speeches on the subject in Massachusetts, in which I pointed out that the existing law, in general, was likely to be sufficient. I claimed, however, further, that Congress had, in my opinion, the power of controlling the whole matter, by reason of its right to prescribe terms on which any corporation, created by State authority or its own, should engage in interstate or international commerce. It might provide as a condition for such traffic by a corporation, that its officers or members should put on file an obligation to be personally liable for the debts of the concern in case the conditions prescribed by Congress were not complied with.

The House of Representatives passed a very stringent bill known as the Littlefield Bill, which was amended by the Judiciary Committee, of which I was the Chairman, by adding the provisions of a bill which I had, myself, previously introduced, based on the suggestions above stated.

But there was a general feeling that the amendments to the existing law proposed by the Administration were all that should be made at present. These consisted in providing severe penalties for granting rebates by railroads to favored shippers; for having suits under the existing law brought forward for prompt decision, and for giving the new Department of Commerce large powers for the examination of the conduct of the business of such corporations, and to compel them to make such returns as should be thought desirable.

I should have preferred to have the bill I reported brought forward and discussed in the Senate, although there was obviously no time, with the pressure of other business, to get it through. But it was thought best by a majority of the Republicans not to take it up. Some of them thought it was likely, if passed, to have a very serious and perhaps disastrous effect on the country. So far as I know, nobody in either House of Congress or in the press has pointed out why such a result would be likely to follow.

On the whole I was very well satisfied. The interests concerned are vast. A rash or unskilful remedy might bring infinite trouble or ruin to lawful business. The work of restraining the trusts is going on very well under the law of 1890. It is a matter which must be discussed and considered by the American people for a great many years to come, and the evils from the trusts at present are rather in anticipation than in reality. So I am very well content, for the present, with what has been accomplished.

CHAPTER XXXVII

RECOLLECTIONS OF THE WORCESTER BAR

The Worcester Bar, when I came to it, was much like a class of boys in college. There was rivalry and sharp practice in some cases, and roughness of speech toward each other and toward witnesses and parties. But in the main, the lawyers stood by one another and were ready to help each other in trouble, and the lawyer's best and most trustworthy friends were his associates. The Judge and the jurymen, and the lawyers from out of town used to come into Worcester and stay at the old Sykes or Thomas Tavern, opposite the court-house, and at another one known as the United States Hotel, further south. The former was kept for a good many years by an old fellow named Sykes. He was a singular-looking person—a large head, stout body, rather protuberant belly, and short curved legs and very long arms. He had large heavy eyebrows, a wide mouth and a curved nose and sallow complexion looking a good deal like the caricatures of the Jewish countenance in the comic newspapers. He had two sons who looked very much like him and seemed about as old as their father. One day the three were standing in front of his tavern when a countryman came along who undertook to stop with his load at the front door of the tavern. Sykes was standing there with his two sons, one on each side of him. He did not like to have the countryman stop his load in that spot and called out to him rather roughly, "Move along." The fellow surveyed the group for a moment with an amused look and complied with the order, but shouted out to the old man: "Wal, this is the fust time I ever saw three Jacks of Spades in one pack."

The Court sat till six o'clock and often far into the evening, and began at half-past eight or nine. So there was no

chance for the country lawyers to go home at night. There was great fun at these old taverns in the evening and at meal times. They insisted generally, like Mrs. Battles in whist, on the rigor of the game, and the lawyer had to look sharp after his pleadings or he found himself tripped up. The parties could not be witnesses, nor could any person interested in the result of the trial. So many a good case, and many a good defence failed for want of the legal evidence to make it out. But the whole Bar and the public seemed to take an interest in important trials. People came in from the country round about with their covered wagons, simply for the pleasure of attending Court and seeing the champions contend with each other. The lawyers who were not engaged in the case were always ready to help those who were with advice and suggestion. It used to be expected that members of the Bar would be in the court-house hearing the trials even if they were not engaged in them. That was always an excuse for being absent from the office, and their clients sought them at the court-house for consultation. I cannot but think that the listening to the trial and argument of causes by skilful advocates was a better law school than any we have now, and that our young men, especially in the large cities, fail to become good advocates and to learn the art of putting in a case, and of examining and cross-examining witnesses, for want of a constant and faithful attendance on the courts.

In those old times, our old lawyers, if Charles Lamb had known them and should paint them, would make a set of portraits as interesting as his old Benchers of the Inner Temple. Old Calvin Willard, many years sheriff of Worcester, would have delighted Elia. He did not keep the wig or the queue or the small-clothes of our great-grandfathers, but he had their formal and ceremonial manners in perfection. It was like a great State ceremonial to meet him and shake hands with him. He paused for a moment, surveyed you carefully to be sure of the person, took a little time for reflection to be sure there was nothing in the act to compromise his dignity, and then slowly held out his hand. But the grasp was a warm one, and the ceremony and the hand-

shake conveyed his cordial respect and warmth of regard. He always reminded me of the Englishman in Crabbe's "Tales" who, I think, may have been his kinsman.

> The wish that Roman necks in one were found
> That he who formed the wish might deal the wound,
> This man had never heard. But of the kind
> Is the desire which rises in his mind.
> He'd have all English hands, for further he
> Cannot conceive extends our charity,
> All but his own, in one right hand to grow;
> And then what hearty shake would he bestow.

Mr. Willard was once counsel before a magistrate in a case in which he took much interest. A rough, coarse country lawyer was on the other side. When Willard stated some legal proposition, his adversary said: "I will bet you five dollars that ain't law." "Sir," said Mr. Willard, drawing himself up to his full height, with the great solemnity of tone of which he was master: "Sir, I do not permit myself to make the laws of my country the subject of a bet."

Another of the old characters who came down to my time from the older generation was Samuel M. Burnside. He was a man of considerable wealth and lived in a generous fashion, dispensing an ample hospitality at his handsome mansion, still standing in Worcester. He was a good black-letter lawyer, though without much gift of influencing juries or arguing questions of law to the Court. He was a good Latin scholar, very fond of Horace and Virgil, and used to be on the committees to examine the students at Harvard, rather disturbing the boys with his somewhat pedantic questioning. He was very nearsighted, and, it is said, once seized the tail of a cow which passed near him in the street and hurried forward, supposing some woman had gone by and said, "Madam, you are dropping your tippet."

One of the most interesting characters among the elders of the Worcester Bar was old Rejoice Newton. He was a man of excellent judgment, wisdom, integrity and law learning enough to make him a safe guide to his clients in

their important transactions. He was a most prosaic person, without sentiment, without much knowledge of literature, and absolutely without humor. He was born in Northfield near the banks of the Connecticut River and preserved to the time of his death his love of rural scenes and of farming. He had an excellent farm a mile or two out of town, where he spent all the time he could get from his professional duties. He was associated with Chief Justice Shaw in some important cases, and always thought that it was due to his recommendation that Governor Lincoln appointed the Chief Justice—a suggestion which Governor Lincoln used to repel with great indignation. The Governor was also a good farmer, especially proud of his cattle. Each of them liked to brag of their crops and especially of the products of their respective dairies. Governor Lincoln was once discoursing to Devens and me, in our office, of a wonderful cow of his which, beside raising an enormous calf, had produced the cream for a great quantity of butter. Mr. Devens said: "Why, that beats Major Newton's cow, that gave for months at a time some fifteen or eighteen quarts at a milking." "If Brother Newton hears of my cow," said Governor Lincoln, "he will at once double the number of quarts." The old Major was quite fond of telling stories, of which the strong points were not apt to suffer in his narration. One Fourth of July, when he had got to be an old man, he came down street and met a brother member of the Bar, who took him up into the room of the Worcester Light Infantry, a Company of which the Major's deceased son had long ago been the Captain. The members of the Company were spending the Fourth with a bowl of punch and other refreshments. The Major was introduced and was received with great cordiality, and my friend left him there. The next day my friend was going down street and met the Captain of the Light Infantry, who said: "That was a very remarkable old gentleman you brought into our room yesterday. He stayed there all the forenoon, drinking punch and telling stories. He distinctly remembered General Washington. He went home to dinner, came back after dinner, drank some more punch, and remembered Christopher Columbus."

The old Major was once addressing the Supreme Court and maintained a doctrine which did not commend itself to Chief Justice Shaw. The Chief Justice interposed: "Brother Newton, what is the use of arguing that? We have held otherwise in such a case (citing it) and again and again since." The Major paused, drew his spectacles slowly off his nose, and said to the Court with great seriousness: "May it please your Honors, I have a great respect for the opinions of this Court, except in some very gross cases."

A man by the name of Lysander Spooner, whose misfortune it was to be a good deal in advance of his age, the author of a very clever pamphlet maintaining the unconstitutionality of slavery, also published some papers attacking the authenticity of the Christian miracles. In these days of Bob Ingersoll such views would be met with entire toleration, but they shocked Major Newton exceedingly, as they did most persons of his time. Spooner studied for the Bar and applied to be admitted. He was able to pass an examination. But the Major, as *amicus curiæ,* addressed the Court and insisted that Spooner was not a man of proper character, and affirmed in support of his assertion that he was the author of some blasphemous attacks on Christianity. The result was that Spooner's application was denied. The Court adjourned for dinner. It was the day of the calling of the docket, and just before the Judge came in in the afternoon, the whole Bar of Worcester County were assembled, filling the room. The Major sat in a seat near one of the doors. He had dined pretty heavily, the day was hot and the Major was sleepy. He tipped back a little in his chair, his head fell back between his shoulders and his mouth opened, with his nose pointed toward the zenith. Just then Spooner came in. As he passed by the Major, the temptation was irresistible. He seized the venerable nose of the old patriarch between his thumb and finger, and gave it a vigorous twist. The Major was awakened and sprang to his feet, and in a moment realized what had happened. He was, as may be well supposed, intensely indignant. No Major in the militia could submit to such an insult. He seized his chair and hurled it at the head of the

offender, but missed, and the bystanders interposed before he was able to inflict the deserved punishment.

The Major lived to a good old age. His mental faculties became somewhat impaired before he died. He had great respect for his excellent son-in-law, Colonel Wetherell, who was on Governor Andrew's staff during the War, and thought that anything which ought to be accomplished could be accomplished by the influence of the Colonel. Somebody told him during the hardest part of the war that we ought to bend all our energies to the capture of Richmond. If Richmond were to fall the rebellion would be easily put down. "You are quite right, sir," said the Major. "It ought to be done, and I will speak to Colonel Wetherell about it." But everybody who knew the worthy Major, unless it were some offender against justice, or some person against whose wrong-doing he had been the shield and protector to a client, liked the kindly, honest and sturdy old man. He was District Attorney for the district which included Worcester County—an office then and ever since held by admirable lawyers. He prided himself on the fact that he never drew an indictment which was not sustained by the Court, if it were questioned. He liked to recite his old triumphs. He especially plumed himself on his sagacity in dealing with one case which came before him. A complaint was made of a book well known at that time, the memoirs of a dissolute woman, which was full of indecency, but in which there could not be found a single separate indecent sentence or word. The Major was at a loss for some time what to do in indicting it. If he set forth the whole book, it would give it an immortality on the records of the court which perhaps would be worse for the public morals than the original publication. Finally he averred in the indictment that the defendant had published a book so indecent that it was unfit to be spread on the records of the court. The question went up to the Supreme Court and the indictment was held good. It was difficult for the Court or the jury to find that such a book was fit to be spread on the records of the Court, and the Major secured his victory and convicted his criminal.

One of the bright young lawyers who came to the Bar a few years after I did, was Appleton Dadmun. He died of consumption after a brief but very successful career. He was the very type and embodiment of the Yankee countryman in his excellencies and his defects and in his fashion of speech and behavior. He was a graduate of Amherst College. The only evidence I ever discovered of his classical education was his habit of using the Greek double negative in ordinary English speech. He used to employ me almost always as senior when he had a case to argue to a jury, or an important law argument in Court. He would put off the engagement until just as the case was coming on. He used to intend to try his cases himself. But his heart, at the last moment, would fail him. He was as anxious about his clients' causes as if they were his own. He was exceedingly negligent about his pleadings and negligent in the matter of being prepared with the necessary formal proofs of facts which were really not doubtful but which were put in issue by the pleadings. When I was retained my first duty was to prepare an amendment of the declaration or the answer or plea, or, perhaps, to see whether he had got the attesting witness to prove some signature. But when we had got past all that I used to find that he had prepared his evidence with reference to what was the pinch of the case and what was likely to be finally the doubtful point in the mind of court or jury with infinite sagacity and skill. I have rarely known a better judge of the effect of evidence on the mind of ordinary juries. He took his clients into his affection as if they had been his own brethren or children, and seemed always to hate to be compelled to make any charge for his services, however successful.

He had a pleasant wit. On one occasion a member of the bar named Holbrook, who was not a bad fellow, but had, like the rest of the world, some peccadilloes to repent of, came into the Court-house one morning just as the Court was coming in where the lawyers were gathered. Much excited, he said he was riding into Worcester in a chaise from the neighboring town where he spent his nights in the summer. His horse had run away and tore at a terrible rate down

Main Street, swinging the chaise from one side to the other as he ran, and breaking some part of the harness and perhaps one of the shafts. But at last he had contrived to crawl out through the window behind in the chaise top and hold on to the cross-bar. Letting himself down just as the chaise had got to the extremity of its sway from one side to another, he let go and escaped without injury. But, he said, it was a terrible five minutes. Every action of his life seemed to rush through his memory with the swiftness of a torrent. "You ought to have very heavy damages, sir," said Mr. Dadmun.

Another of the brightest of the young lawyers when I came to the Bar was H. He had, however, had rather an unfortunate introduction to life. His father, who was a very wealthy and prosperous manufacturer, sent him to Yale College and supplied him liberally with money, not only for his support, but for the indulgence of every extravagant taste. Beside spending what his father allowed him, he incurred a good many debts, expecting to find no difficulty in their payment. His father failed in business with a great crash about the end of his junior year and died suddenly. He kept on, however, on credit, until he graduated, and then came out with a heavy load of debt, and no resources for studying his profession. He got through, however, by dint of plausible manners. He was a very honest fellow in all other respects, but he got the habit of incurring debts which he could not pay. Then he took to drinking hard, and finally went to New York, and died after a career of dissipation. But everybody liked him. Drunk or sober, he was the best company in the world, full of anecdote flavored with a shrewd and not ill-natured wit. There was a manufacturer in a village near Worcester who had failed in business owing large debts all about. He was a man of enormous bulk, the fattest man in the whole region roundabout, weighing considerably over three hundred. He left the State to avoid his creditors, and dwelt in New York, keeping himself out of their reach. At last it was discovered by a creditor that he used to come to Worcester in the train which arrived from New York on the Western

Railroad shortly before midnight Saturday, go over to his old home, which was not far off, stay there Sunday, when he was exempt from arrest, and take the cars Sunday night at about the same hour for New York. Accordingly old Jonathan Day, a veteran deputy-sheriff, armed with an execution, lay in wait for him one dark and stormy Saturday night at the little old wooden depot of the Western Railroad, some hundred or two feet from Grafton Street. The train came in, and the debtor got out. The old General laid his hands on him, and told him he was his prisoner. He protested and demurred and begged, making all manner of promises to pay the debt if the officer would not take him to jail. But Day was inexorable. Meantime the train had gone on, and the keeper of the depot had put out the lights and gone off. There was nobody left in the darkness but the officer and the debtor. "Well," said the fellow, "if you are going to take me to jail you must carry me. I won't walk." So he sat himself down on the platform. Day tried to persuade him to walk, and then tugged and tugged at his collar, but without the slightest effect. He might as well have tried to move a mountain. He waited in a good deal of perplexity, and at last he heard the rattle of wheels on Grafton Street, and gave a loud yell for assistance. The owner of the wagon come to the scene. General Day demanded his help as one of the posse comitatus. But it was as hard for the two to move the obstruction as it had been for the old General alone. So the General put the debtor in charge of his new recruit, and went off up street to see what counsel he could get in the matter. All the lights in the lawyers' offices and places of business were out except a solitary gleam which came from the office of my friend H. He was sitting up alone, soaking himself with the contents of a bottle of brandy. General Day found him sitting there and stated his case. My friend heard it through, took it into consideration, and took down and consulted the Revised Statutes and the Digest. At last he shook his head with an air of drunken gravity and said: "I don't find any express provision anywhere for such a case. So I think we must be governed by the rule of law for the case nearest

like it we can find. That seems to be the case of the attachment of personal property, such as lumber, which is too bulky to be removed. My advice to you is to put a placard on him saying he is attached, and go off and leave him till Monday morning."

When I was a young man, one summer a few years after my admission to the Bar, I took a journey on foot with Horace Gray through Berkshire County. We started from Greenfield and walked over the Hoosac Mountain to Adams and Williamstown, then over the old road to Pittsfield, then to Stockbridge, Great Barrington, and the summit of Mt. Washington, now better known as Mt. Everett or Taghsomi; thence to Bashpish Falls in New York, and to the Salisbury Lakes in Connecticut. We visited many interesting places and enjoyed what has always seemed to me the most beautiful scenery on earth.

There were one or two quite ludicrous adventures. I went alone to the top of Bald Mountain in Lenox one day. Gray had been there and preferred to visit a neighboring hilltop. As I approached the summit, which was a bare pasture, I came upon a powerful bull with a herd of cattle near him. He began to bellow and paw the ground and move toward me in angry fashion. There was no chance for any place of refuge which I could hope to gain. I looked around for some rock or instrument of defence. It was, I think, the most imminent danger to which I have ever been exposed. I was calculating my capacity for dodging the creature when suddenly a sound like a small clap of thunder was heard. The rest of the herd, which seemed quite wild, seeing the approach of a stranger, had taken alarm and started off down the hillside on a full run, their rushing and trampling causing the earth to reverberate beneath their tread and produce the sound of which I have just spoken. The old bull hearing the sound and seeing his companions departing concluded he would follow their example. He turned tail too, and retreated down the mountain side, much to my relief.

On our walk through Lanesboro we stopped at a plain country tavern to get lunch. There were several codgers

such as in those days used to haunt country bar-rooms about eleven o'clock in the morning and four o'clock in the afternoon. Sitting in an old wooden chair tilted back against the wall of the room was one of them curled up with his knees sticking up higher than his head. He looked at Gray's stately proportions and called out: "How tall be you?" Gray, who was always rather careful of his dignity, made some brief answer not intended to encourage familiarity. But the fellow persisted: "I would like to measure with you." Gray concluded it was best to enter into the humor of the occasion. So he stood up against the wall. The other man proceeded to draw himself up out of the chair, and unroll, and unroll, and unroll until at last his gigantic stature reached up almost as high as Gray's. But he fell short a little. I learned, later, that it was a man named Shaw who afterward became famous as a writer and humorist under the pseudonym of Josh Billings. He was the son of Henry Shaw, formerly of Lanesboro; at that time a millionaire dwelling in New York, and known to fame as one of the two Massachusetts Representatives who voted for the Missouri Compromise in 1820. Henry Shaw was, I believe, a native of Lanesboro, and had represented the Berkshire district in Congress.

The person whom the Worcester lawyers of this time like best to remember was Peter C. Bacon. He was the Dominie Sampson of the Worcester Bar. I suppose he was the most learned man we ever had in Worcester, and probably, in Massachusetts. He was simple and guileless as a child; of a most inflexible honesty, devoted to the interest of his clients, and an enthusiastic lover of the science of the law. When, in rare cases, he thoroughly believed in the righteousness of his case, he was irresistible. But in general he was full of doubts and hesitation. He was, until he was compelled to make his arguments more compact by the rules of court limiting the time of arguments, rather tedious. He liked to go out into side-paths and to discourse of matters not material to the issue but suggested to him as he went along. He had a curious fashion of using the ancient nomenclature of the Common Law where it had passed

out of the knowledge even of most lawyers and the comprehension of common men. He would begin his appeal to the jury in some case where a fraud had been attempted on his client, by saying, "Gentlemen, the law abhorreth covin." He was a lawyer everywhere. His world was the Courthouse and his office. I met him in the street, of a Sunday noon, one summer and said to him, "Why, Brother Bacon, you must have had a long sermon to-day."

"Oh," Mr. Bacon said, "I stayed to the Sunday-school. I have a class of young girls. It's very interesting. I've got 'em as far as the Roman Civil Law."

Mr. Bacon could seldom be made angry by any incivility to himself. But he resented any attempt to deprive a client, however much of a ne'er-do-well he might be, of all the rights and forms of a legal trial. He was also much disturbed if any lawyer opposed to him misstated a principle of law, who ought, in his judgment, to know better. I was once trying a case against him and his partner, Judge Aldrich, where General Devens was my associate. Devens was summing up the case, and complaining of the conduct of some parties interested in the estate of a deceased person. One of them was a son of a deceased niece. There being no children, under our law, the nephews and nieces inherit, but not the children of deceased nephews or nieces, when there are living nephews or nieces. General Devens, not having in his mind the legal provision at the moment, said to the jury: "The sound of the earth on the coffin of the old lady had scarcely ceased when one of these heirs hurried to the probate office to get administration." Mr. Bacon rose and interrupted him with great emotion. "He is not an heir."

"I said," Mr. Devens repeated, "one of these heirs, Mr. A. F."

Bacon burst into tears and said again, with a broken voice: "He is not an heir, I say, he is not an heir."

I saw the point and whispered to Devens: "An assumed heir."

"Very well," Devens said, "an assumed heir, if my friend likes it better." Bacon replied with a "Humph"

of contentment and satisfaction, and the matter subsided. As I was walking home from the court-house with Mr. Bacon afterward I expressed my regret at the occurrence and told him that General Devens had the greatest respect for him. Mr. Bacon replied: "He had no business to say it. Aldrich told me to tell him he had not read the 'Revised Statutes.' But I would not say such a thing as that, sir, about any man."

But Brother Bacon had the kindest of hearts. It was impossible for him to bear malice or retain resentment against anybody. When I was a youngster I was once in a case where Bacon was on the other side. Charles Allen was my associate. It was a case which excited great public feeling. There were throngs of witnesses. It was tried in the midst of the terrific heats of one of the hottest summers ever known in Worcester. Allen, who had a power of stinging sarcasm which he much delighted to use, kept Bacon nervous and angry through the whole trial. At last, one afternoon, Bacon lost his patience. When the Court adjourned, he stood up on a little flight of steps on the outside of the Court-house and addressed the crowd, who were going out. He said: "Charles Allen has abused me all through this trial. He is always abusing me. He has abused me ever since I came to this Bar. I have said it before and I will say it again—*he is a curious kind of a man.*" This utterance relieved Brother Bacon's wounded feelings and he never probably thought of the matter again.

One of the great events in Bacon's life was his receiving the degree of Doctor of Laws from Brown University, where he was graduated. This gave infinite satisfaction to his brethren of the Bar, who were all very fond of him. It was at once proposed, after the old Yankee fashion in the country when a man got a new hat or a new suit of clothes, that we should all go down to T.'s to "wet" it. T. was the proprietor of a house a few miles from Worcester, famous for cooking game and trout in the season, and not famous for a strict observance of the laws against the sale of liquor. There was a good deal of feeling about that among the temperance people of the town, although it was a most excellent,

properly kept house in all other respects. But the prejudice against it of the strict teetotalers had occasioned some entirely unfounded scandal about its management in other matters. Mr. Bacon, when invited by the Bar to go as a guest, accepted the invitation, but stipulated that he should have provided for him a pint bottle of English ale. He said he was opposed, on principle, to drinking intoxicating liquors, but his doctors had ordered that he should drink a pint of ale every day with his dinner. That was provided. The Bar sat down to dinner at an early hour and the fun and frolic were kept up far into the small hours of the night. Brother Bacon was the subject of every speech and of every toast. He seemed to think it was necessary for him to reply to every speaker and toast. So he was kept on his legs a great part of the night. As he sipped his modest tumbler of ale, Brother Dewey, who sat next to him, would replenish it, when Mr. Bacon was not looking, from a bottle of champagne. So at least two quart bottles of champagne were passed into the unsuspecting Brother Bacon through that single pint of beer. When we broke up, the host came to ask us how we had enjoyed ourselves, and Mr. Bacon told him he would like to know where he got that English ale, which he thought was the best he had ever tasted in his life. It is the only instance that I know of in modern times of the repetition of the miracle of the widow's cruse.

Judge Thomas, then holding the Supreme Court at Worcester, wanted very much indeed to go down with the Bar, but he thought it would not quite do. The next morning Mr. Bacon had to try a libel for adultery between two parties living in the town where the Bar had had their supper. He had had no chance to see his witnesses, who got into town just as the Court opened. So he had to put them on and examine them at a venture. The first one he called was a grave-looking citizen. Mr. Bacon asked him a good many questions, but could get no answer which tended to help his case, and at last he said, with some impatience: "Mr. Witness, can you tell me any single fact which tends to show that this man has committed adultery?"

"Well, all I know about it, Squire Bacon," replied the witness, "is that he's been seen at Charlie T.'s"—the inn where Bacon had had his supper the night before. There was an immense roar of laughter from the Bar, led by Judge Thomas, the ring of whose laugh could have been heard half way across the square.

Brother Bacon, though a modest and most kindly man, used to think he had a monopoly of the abstruser knowledge in regard to real property and real actions. It used sometimes to provoke him when he found a competent antagonist in cases involving such questions. There was a suit in which Bacon was for the demandant where a creditor had undertaken to levy an execution on property standing in a wife's name but claimed to have been conveyed to her in trust for the husband on consideration paid by him. In such cases, under the Massachusetts law, the land may be levied upon as the property of the debtor, notwithstanding the ostensible title is in another. The wife contested the facts. But after the bringing of the suit, the wife died, and the husband by her death became tenant by the courtesy. Of course his title as tenant by the courtesy was unaffected by the previous levy, and his wife's right to contest the demand devolved upon him. The husband and wife had both been made parties defendant to the suit under the Massachusetts practice. It would not do to let the creditor get judgment. Under the advice of Mr. Nelson, afterward Judge, one of the most learned and careful lawyers, the defendant pleaded a special non-tenure, and the case was reported to the full bench of the Supreme Court, where Mr. Bacon was employed for the plaintiff. The report inaccurately said that the defendant filed a disclaimer. Mr. Bacon made a very learned argument to show that upon the facts the disclaimer could not be supported, and was going on swimmingly, under full sail. Mr. Bacon said in his argument: "If he had pleaded non-tenure, I admit, your Honors, he would have been pretty well off." Whereupon Judge Hoar sent for the original papers, and looking at them read the plea, and said: "Isn't that a plea of non-tenure?" Mr. Bacon was obliged to admit that it was. The Chief Justice said: "Well, then,

the tenant is in the condition which you describe as being pretty well off, isn't he, Brother Bacon?'' Bacon answered with an angry and impatient ''Humph.'' The Chief Justice said: ''Are there any other objections to the plea, Brother Bacon?'' ''More than forty, your Honor,'' replied Bacon indignantly, ''which I would state to you at a proper time.'' The Chief Justice said that that seemed to be the proper time. But Mr. Bacon sat down in high dudgeon, without further remark.

He was the kindliest of men, both to man and beast. I once was at a country tavern where Bacon and I were to dine. It was about the time of the session of the Supreme Court. I was sitting on the veranda of the hotel waiting for dinner to be ready, in the summer afternoon. Mr. Bacon took a little walk, and as he came along and was passing the porch, a puppy ran after him, came up behind, and seized his pantaloons in his teeth, making quite a rent in them. Bacon looked round and saw the mischief, and shook his finger at the poor dog. I am sure he had no idea that anybody of the human species was within hearing. The animal crouched down in great terror, expecting a beating. Mr. Bacon paused a moment with his uplifted finger, and addressed the cur. ''Why do you try to bite me? Why do you tear my pantaloons? Do you think I can go through the Supreme Court without pantaloons?'' With that he left the poor dog to the reproaches of his own conscience and took no further notice of the transaction.

I ought perhaps, as I have told this story at Brother Bacon's expense, to tell one at my own where he came out decidedly ahead. We were opposed in a real estate case where the other evidence of the title was pretty strong Bacon's way, but the ancient bounds seemed to agree with my client's theory. I addressed the jury with all the earnestness in my power in favor of the importance of maintaining the ancient landmarks, quoting the curse of the Scripture on him that removed them, and endeavored to make them see how much of the safety and security of property depended on sticking to them in spite of any amount of fallible human testimony. I thought I had made a good

impression. When Brother Bacon came to reply, he told the jury about the Roman god Terminus who watched over boundaries, and after quite an eloquent description, he told the jury: "Brother Hoar always seems to me when he makes this argument, which I have heard a good many times before, to think he is the god Terminus, and that the protection of all our modern landmarks is his exclusive province." The jury were very much amused. I have forgotten how the case was decided. But I should doubtless remember if it had been decided in my favor.

Quite late in life some of Mr. Bacon's clients, seeing that he was out of health, and grateful for his long, faithful and poorly paid service, made an arrangement to send him on a journey to Europe. He was gone a little more than a year, visiting England, France, Italy and Spain, and returning with new vigor for another ten years of hard work. His interest in Europe had come chiefly from the literature which he had read in his younger days. He was not very familiar with much English prose or poetry later than the time of Addison. In one of his first letters in London he announced with great satisfaction, "I have a room not far from the celebrated Westminster Abbey mentioned in the *Spectator.*"

But Brother Bacon ought not to be remembered alone, or chiefly, for his eccentricities. He was a profound, accurate and able jurist. The great interests of clients were safe with him. To him the profession of the lawyer was a sacred office. I never think of him without recalling Cicero's beautiful description in the "De Oratore" of the old age of the great lawyer:

Quid est enim præclarius quam honoribus et reipublicæ muneribus perfunctum senem posse suo jure dicere id quod apud Enium dicit ille Pythias Apollo, se esse eum, unde sibi, si non populi et reges, at omnes sui cives consilium expetant;

> suarum rerum incerti quos ego ope mea ex
> incertis certos compotesque consili dimitto
> ut ne res temere tractent turbidas.

Est enim sine dubio domus jurisconsulti totius oraculum civitatis.

Mr. Bacon lived to celebrate his golden wedding, and ended a stainless and honored life in a ripe old age, mourned by the whole community, of which he had been a pillar and an ornament. His portrait hangs in the Court House where he would have loved best to be remembered.

In my early days at the Worcester Bar there were a good many bright men, young and old, who had their offices in the country towns, but who tried a good many cases before juries. All the courts for the county in those days were held in Worcester. Among these country lawyers was old Nat Wood of Fitchburg, now a fine city; then a thriving country town. Mr. Wood had a great gift of story-telling, and he understood very well the character and ways of country farmers. He used to come down from Fitchburg at the beginning of the week, stop at the old Sykes Tavern where the jurymen and witnesses put up, spend the evening in the bar-room getting acquainted with the jurymen and telling them stories. So when he had a case to try, he was apt to have a very friendly tribunal. His enemies used to say that he always contrived to sleep with one juryman himself, and have his client sleep with another, when he had a case coming on. He was quite irritable and hasty, and would sometimes break out with great indignation at some fancied impropriety of the other side, without fully understanding what was going on. I was once examining a witness who had led rather a roving and vagabond life. I asked him where he had lived and he named seven different towns in each of which he had dwelt within a very short time. I observed: "Seven mighty cities claimed great Homer dead." Wood instantly sprang to his feet with great indignation. "Brother Hoar, I wish you would not put words into the witness's mouth."

Wood was a native of Sterling, a thinly settled country town near the foot of Mount Wachusett. The people of that town were nearly equally divided between the Unitarian and Universalist congregations. Each had its meeting house fronting on the public common or Green, as it was called.

In the summer the farmers would come to meeting from distant parts of the town, bringing luncheon with them; have a short intermission after the morning service, and then have a second service in the afternoon. During the recess, in pleasant summer weather, the men of the two congregations would gather together on the Green, discussing the news of the town, and very often getting into theological controversies. In the winter, they gathered in the tavern or post-office in the same way. There was one Universalist champion who told the gathering that he would make any man admit the truth of Universalism in five minutes. He was a well known and doughty champion, and the Unitarians were rather loth to tackle him. But, one Sunday, Lawyer Wood came home to spend the day at his birthplace, and the Unitarians thought it was a good chance to encounter the Universalist champion. So they accepted his challenge and put Wood forward to meet him.

The Universalist theologian began: "You'll admit there is a God?"

"No, I'll be damned if I do," replied Wood.

The fellow was completely non-plussed. He had got to take up his five minutes in compelling Wood to admit the existence of a Creator. So he was obliged to retire from the field discomfited.

Another of our leaders at the Bar was Henry Chapin. He had made his way from a rather humble place in life to be one of the leaders of a very able Bar, Mayor of Worcester, and to hold a place of large influence in the various business, social, charitable and religious activities of the community. He was not specially learned, specially profound or specially eloquent. But he had a rare gift of seizing upon the thought which was uppermost in the minds of excellent and sensible men, country farmers, skilled workmen in the shops, business men, expressing it in a clear and vigorous way, always agreeing with the best sentiment of the people. This, with an unfailing courtesy and pleasant humor and integrity of character and life gave him great popularity. He was exceedingly happy in short speeches at dinners or at political meetings. He had a fund of entertaining

anecdote which never seemed to fail. He was very careful not to seem dogmatic, or to assert himself too strongly. He would put forward his opinion with saying, "It strikes my mind," or "It has occurred to me," or "I thought perhaps it was possible," or "It is my impression." I remember once protesting before old Judge Byington against some objection which the counsel on the other side had made to a witness testifying to his impressions. I told the Judge that Brother Chapin never in his life stated anything more strongly. If you asked him if he were married, he would say it was his impression he was. The Judge said: "Well, we have a lawyer in Berkshire County who has the same habit. Only if you ask him if he is married it is his impression he isn't."

It is said that when he went to see the Siamese Twins, he observed to the exhibitor, "Brothers, I suppose." But I believe that story had been told before of one of the Royal Dukes.

Mr. Chapin was nominated by the Republicans for Congress and accepted and would have had a useful and distinguished public life. But he became alarmed by the opposition of the Know-Nothings and withdrew from the canvass much to the dissatisfaction of his political friends. That ended his political aspirations. But he was soon after appointed to the more congenial office of Judge of Probate, which he discharged to great public satisfaction until his lamented death.

CHAPTER XXXVIII

SOME JUDGES I HAVE KNOWN

Unquestionably the most important character in the legal history of Massachusetts is Chief Justice Lemuel Shaw. He was a great lawyer before he came to the Bench. He had written one or two very able articles for the *North American Review,* one of them a vigorous statement of the opinion of Massachusetts upon slavery. He was the author of a petition signed by many of the leading men of Massachusetts in opposition to the high tariff of 1828. No more powerful statement of the argument against high protection can be found. I have been surprised that the modern free-traders have not long ago discovered it, and brought it to light. He was one of the managers of the impeachment of Judge Prescott, securing a conviction against a powerful array of counsel for the defendant, which included Daniel Webster. He was consulted in difficult and important matters by eminent counsel in other counties than Suffolk.

But all these titles to distinction have been forgotten in his great service as Chief Justice of Massachusetts for thirty years. No other judicial fame in this country can rival his, with the single exception of Marshall. He was induced to undertake the office of Chief Justice very reluctantly, by the strong personal urgency of Mr. Webster. Mr. Webster used to give a humorous account of the difficulty he had in overcoming the morbid scruples of the great simple-hearted intellectual giant. He found Mr. Shaw in his office in a cloud of tobacco-smoke. Mr. Webster did not himself smoke, and was at some disadvantage during the interview for that reason.

Mr. Shaw was rather short in stature and, in the latter part of his life, somewhat corpulent. He had a massive

head, a low forehead, and strong and rather coarse features. He reminded you of the statues of Gog and Magog in the Guildhall in London. His hair came down over his forehead, and when he had been away from home for a week or two, so that his head got no combing but his own, it was in a sadly tangled mass. His eye was dull, except when it kindled in discussion, or when he was stirred to some utterance of grave displeasure.

There is an anecdote of Mr. Choate which occasionally goes the rounds of the papers, and which is often repeated quite inaccurately. The true version is this. I heard it within a few hours after it happened, and have heard it at first hand more than once since.

Mr. Choate was sitting next to Judge Hoar in the bar when the Chief Justice was presiding, and the Suffolk docket was being called. The Chief Justice said something which led Mr. Choate to make a half-humorous and half-displeased remark about Shaw's roughness of look and manner, to which Judge Hoar replied: "After all, I feel a reverence for the old Chief Justice."

"A reverence for him, my dear fellow?" said Choate. "So do I. I bow down to him as the wild Indian does before his wooden idol. I know he's ugly; but I bow to a superior intelligence."

Judge Shaw's mind moved very slowly. When a case was argued, it took him a good while to get the statement of facts into his mind. It was hard for him to deal readily with unimportant matters, or with things which, to other people, were matters of course. If the simplest motion were made, he had to unlimber the heavy artillery of his mind, go down to the roots of the question, consider the matter in all possible relations, and deal with it as if he were besieging a fortress. When he was intent upon a subject, he was exceedingly impatient of anything that interrupted the current of his thought. So he was a hard person for young advocates, or for any other unless he were strong, self-possessed, and had the respect of the Judge. My old friend and partner, Judge Washburn, once told me that he dreaded the Law term of the Court as it approached, and sometimes

felt that he would rather lay his head down on the rail, and let a train of cars pass over it, than argue a case before Shaw. The old man was probably unconscious of this failing. He had the kindest heart in the world, was extremely fond of little children and beautiful young women, and especially desirous to care for the rights of persons who were feeble and defenceless.

I was myself counsel before him in a case where the question was whether a heifer calf, worth six or seven dollars, the offspring of the one cow which our law reserves to a poor debtor against attachment, was also exempt. My opponent undertook to make some merriment about the question, and there was some laughter at the Bar. The old Chief Justice interposed with great emotion: "Gentlemen, remember that this is a matter of great interest to a great many poor families." There was no laughter after that, and that heifer calf did duty in many a trial afterward, when the young advocates at the Worcester Bar had some poor client to defend.

The Chief Justice had not the slightest sense of humor. When old Judge Wilde, the great real property Judge, died after an illustrious judicial service of thirty-five years, somebody showed Chief Justice Shaw a register published in Boston which recorded his death, "Died in Boston, the Honorable Samuel S. Wilde, aged eighty, many years Justice of the Peace." It was passed up to the Bench. The old Chief Justice looked at it, read it over again, and said, "What publication is this?"

In the old days, when the lawyers and Judges spent the evenings of Court week at the taverns on the Circuit, the Chief Justice liked to get a company of lawyers about him and discourse to them. He was very well informed, indeed, on a great variety of matters, and his talk was very interesting and full of instruction. But there was no fun in it. One evening he was discoursing in his ponderous way about the vitality of seed. He said: "I understand that they found some seed of wheat in one of the pyramids of Egypt, wrapped up in a mummy-case, where it had been probably some four thousand years at least, carried it over to Eng-

land last year and planted it, and it came up and they had a very good crop."

"Of mummies, sir?" inquired old Josiah Adams, a waggish member of the Bar.

"No, Mr. Adams," replied the Chief Justice, with a tone of reproof, and with great seriousness. "No, Mr. Adams, not mummies—wheat."

Adams retired from the circle in great discomfiture. He inquired of one of the other lawyers, afterward, if he supposed that the Chief Justice really believed that he thought the seed had produced mummies, and was told by his friend that he did not think there was the slightest doubt of it.

Chief Justice Shaw, though very rough in his manner, was exceedingly considerate of the rights of poor and friendless persons. Sometimes persons unacquainted with the ways of the world would desire to make their own arguments, or would in some way interrupt the business of the court. The Chief Justice commonly treated them with great consideration. One amusing incident happened quite late in his life. A rather dissipated lawyer who had a case approaching on the docket, one day told his office-boy to "Go over to the Supreme Court and see what in hell they are doing." The Court were hearing a very important case in which Mr. Choate was on one side and Mr. Curtis on the other. The Bar and the Court-Room were crowded with listeners. As Mr. Curtis was in the midst of his argument, the eye of the Chief Justice caught sight of a young urchin, ten or eleven years old, with yellow trousers stuffed into his boots, and with his cap on one side of his head, gazing intently up at him. He said, "Stop a moment, Mr. Curtis." Mr. Curtis stopped, and there was a profound silence as the audience saw the audacious little fellow standing entirely unconcerned. "What do you want, my boy?" said the Chief Justice. "Mr. P. told me to come over here and see what in hell you was up to," was the reply. There was a dive at the unhappy youth by three or four of the deputies in attendance, and a roar of laughter from the audience. The boy was ejected. But the gravity of the old Chief Justice was not disturbed.

He had a curiously awkward motion, especially in moving about a parlor in social gatherings, or walking in the street. I once pointed out to a friend a ludicrous resemblance between his countenance and expression and that of one of the tortoises in the illustrations of one of Agassiz's works on natural history. To which my friend replied: "It is the tortoise on which the elephant stands that bears up the foundations of the world," alluding to the Hindoo mythology.

Chief Justice Shaw's opinions, as we have them in the reports, are exceedingly diffuse. That practice would not answer for a generation which has to consult the reports of forty-five States and of the Supreme Court and nine judicial circuits of the United States, besides the reports of the decisions of some of the District Judges, and in most cases the English decisions. But it would be a great public loss if any of Chief Justice Shaw's utterances were omitted. His impulse, when a question was argued before him, was to write a treatise on the subject. So his decisions in cases where the questions raised are narrow and unimportant are often most valuable contributions to jurisprudence. He seldom passed over any point or suggestion without remark. He went to the bottom of the case with great patience and incredible industry. The counsel who lost his case felt not only that he had had the opinion of a great and just magistrate, but that every consideration he could urge for his client was respectfully treated and either yielded to or answered. Some of his ablest and most far-reaching decisions were written after he was eighty years old.

He possessed, beyond any other American Judge, save Marshall, what may be termed the statesmanship of jurisprudence. He never undertook to make law upon the Bench, but he perceived with a far-sighted vision what rule of law was likely to operate beneficially or hurtfully to the Republic. He was watchful to lay down no doctrine which would not stand this test. His great judgments stand among our great securities, like the provisions of the Bill of Rights.

The Chief Justice was a tower of strength to the Massachusetts judiciary. But for him it is not unlikely that the

State would have adopted an elective judiciary or a tenure limited to a term of years. But the whole people felt that his great integrity and wisdom gave an added security to every man's life, liberty, and property. So the proposition to limit the judicial tenure, although espoused by the two parties who together made up a large majority of the people of the State, was defeated when it was submitted to a popular vote. It is, however, a little remarkable that in the neighboring State of Vermont, for many years the Judges of the Supreme Court were annually elected by the Legislature, a system which, I believe, has worked on the whole to their satisfaction. They have had an able judiciary. It is said that old Chief Justice Shaw was one evening discoursing at a meeting of the Boston Law Club to an eminent Vermont Judge, who was a guest. He said, "With your brief judicial tenure, sir"— The Vermonter interrupted him and said, "Why, our tenure of office is longer than yours." "What do you mean?" said the Chief Justice. "I do not understand you." "Why," was the reply, "our Judges are elected for a year, and you are appointed as long as you behave yourselves."

Chief Justice Shaw is said to have been a very dull child. The earliest indication of his gift of the masterly and unerring judgment which discerned the truth and reason of things was, however, noticed when he was a very small boy. His mother one day had a company at tea. Some hot buttered toast was on the table. When it was passed to little Lemuel he pulled out the bottom slice, which was kept hot by the hot plate beneath and the pile of toast above. His mother reproached him quite sharply. "You must not do that, Lemuel. Suppose everybody were to do that?" "Then everybody would get a bottom slice," answered the wise urchin.

Judge Shaw had the sturdy spirit and temper of the old seafaring people of Cape Cod, among whom he was born and bred. He was fond of stories of the sea and of ships. He liked to hear of bold and adventurous voyages. Judge Gray used to tell the story of the old Chief's standing with his back to the fire, with his coat-tails under his arm, in the

Judges' room at the Suffolk Court-House, one cold winter morning, when the news of the fate of Sir John Franklin's expedition or the story of some other Arctic tragedy had just reached Boston and was in the morning papers.

"I hope, sir," said Judge Bigelow, "that there will be no more of these voyages to discover the North Pole."

"I want 'em to find that open Polar sea, sir," said Shaw.

"But don't you think," said Judge Bigelow, "that it is too bad to risk so many human lives, and to compel the sailors to encounter the terrible suffering and danger of these Arctic voyages?"

"I think they'll find it yet, sir," was all the reply Bigelow could get.

Judge Shaw, in his latter days, was reverenced by the people of Massachusetts as if he were a demi-god. But in his native county of Barnstable he was reverenced as a God. One winter, when the Supreme Court held a special session at Barnstable for the trial of a capital case, Judge Merrick, who was one of the Judges, came out of the Court-house just at nightfall, when the whole surface of the earth was covered with ice and slush, slipped and fell heavily, breaking three of his ribs. He was taken up and carried to his room at the hotel, and lay on the sofa waiting for the doctor to come. While the Judge lay, groaning and in agony, the old janitor of the court-house, who had helped pick him up, wiped off the wet from his clothes and said to him, "Judge Merrick, how thankful you must be it was not the Chief Justice!" Poor Merrick could not help laughing, though his broken ribs were lacerating his flesh.

Next to Chief Justice Shaw in public esteem, when I came to the Bar in December, 1849, was Mr. Justice Wilde. He was nearly eighty years old, and began to show some signs of failing powers. But those signs do not appear in his recorded opinions. He was a type of the old common-lawyer in appearance and manner and character. He would have been a fit associate for Lord Coke, and would never have given way to him. I suppose he was never excelled as a real-property lawyer in this country. He had the antiquated pronunciation of the last century, a venerable gray head

and wrinkled countenance, with heavy gray eyebrows. He seemed to the general public to be nothing but a walking abridgment. Still, he was a very well-informed man, and had represented a district of what is now the State of Maine in Congress with great distinction. A friend of mine went rather late to church at King's Chapel one Sunday when the congregation had got some way in the service, and was shown into the pew immediately in front of old Judge Wilde. The Judge was just uttering in a distinct, clear tone, "Lord, teach me Thy statoots." It was the only petition he needed to have granted to make him a complete Judge. Of the Lord's common law he was a thorough master.

He was no respecter of persons. He delivered his judgments with an unmoved air, as if he had footed up a column of figures and were announcing the result. When I was in the Law School, Mr. Webster was retained to argue an important real estate case before Judge Wilde in Suffolk County. Mr. Webster was making what would have been a powerful argument on a question of land-title but for a statute passed since the days of his constant practice, which had not come to his knowledge. There was a great audience, and when Mr. Webster had got his point fairly stated, he was interrupted by Wilde. "Pooh, pooh, Mr. Webster." The Judge pointed out that Webster had overlooked one link in the chain of his antagonist's title.

"But," said Mr. Webster in reply, "the descent tolls the entry."

"That rule is abolished by the statoot, sir."

"Why didn't you tell me that?" said Webster angrily to his junior.

Another of our great old Judges was Judge Fletcher. He had had a great practice as an advocate in Boston, especially as a commercial lawyer. He had a great power of clear statement. He brought out his utterances in a queer, jerking fashion, protruding his lips a little as he hesitated at the beginning of his sentences. But he knew how to convey his meaning to the apprehension of Courts and juries. He left the Bench less than two years after I came to the Bar. I never had but one important case before him. He was a

bachelor. He was very interesting in conversation, liked the company of young men, who never left him without carrying away some delightful anecdote or shrewd and pithy observation.

A lawyer from the country told me one day that he had just been in Fletcher's office to get his opinion. While he was in the office, old Ebenezer Francis, a man said to be worth $8,000,000, then the richest man in New England, came to consult him about a small claim against some neighbor. Fletcher interrupted his consultation with my friend and listened to Mr. Francis's story. In those days, parties could not be witnesses in their own cases. Fletcher advised his client that although he had an excellent case, the evidence at his command was not sufficient to prove it, and advised against bringing an action. Francis, who was quite avaricious, left the office with a heavy heart. When he had gone, Fletcher turned to my friend and said: "Isn't it pitiful, sir, to see an old critter, wandering about our streets, destitute of proof?"

But the most interesting and racy character among our old Judges was Theron Metcalf. He used to say of himself —a saying that did him great injustice—that he was taken to fill a gap in the Court as people take an old hat to stop a broken window. He undervalued his own capacity. He was not a good Judge to preside at jury trials. He had queer and eccentric notions of what the case was all about, and while he would state a principle of law with extraordinary precision and accuracy he had not the gift of making practical application of the law to existing facts. So a great many of his rulings were set aside, and it did not seem, when he had held a long term of Court, that a great deal had been accomplished. But he was a very learned common-lawyer. His memory was a complete digest of the decisions down to his time. He comprehended with marvellous clearness the precise extent to which any adjudged case went, and would state its doctrine with mathematical precision.

He hated statutes. He was specially indignant at the abolition of special pleading. He sent word to me, when I was Chairman of the Judiciary Committee in the Massachu-

setts Senate, asking to have a provision enacted for simplifying the process of bringing before the full Bench for revision the proceedings in habeas corpus, or mandamus, or certiorari, or some other special writ, I forget now what. I called upon him at once, and pointed out to him that exactly what he wanted was accomplished by the Practice Act of 1852. This was the statute under which all our legal proceedings in cases affecting personal property were had. Metcalf said, with great disgust: "I have said, sir, that if they did not repeal that thing I would read it."

He used to enliven his judgments with remarks showing a good deal of shrewd wisdom. In one case a man was indicted for advertising a show without a license. The defendant insisted that the indictment was insufficient because it set out merely what the show purported to be, and not what it really was. On which the Judge remarked: "The indictment sets out all that is necessary, and, indeed, all that is safe. The show often falls short of the promise in the show-bill."

There was once a case before him for a field-driver who had impounded cattle under the old Massachusetts law. The case took a good many days to try, and innumerable subtle questions were raised. The Judge began his charge to the jury: "Gentlemen of the jury, a man who takes up a cow straying in a highway is a fool."

Another time there was a contest as to the value of some personal property which had been sold at auction. One side claimed that the auction-sale was a fair test of the value. The other claimed that property that was sold at auction was generally sold at a sacrifice. Metcalf said to the jury: "According to my observation, things generally bring at auction all they are worth, except carpets."

I once tried a case before him against the Norwich Railroad for setting fire to the house of a farmer by a spark from a locomotive. It was a warm summer afternoon when the house was burnt up. There was no fire in the house except a few coals among the ashes in a cooking stove where the dinner had been cooked some hours before. The railroad was very near the house. There was a steep up-grade,

so that the engineers were tempted to open the bonnet of their smokestacks for a better draught. We called as a witness a sturdy, round-faced, fat old woman, who testified that she was sitting at her window, knitting, in a house some little distance away, when the train went by. She put in a mark to see, as she expressed it, "how many times round" she could knit before supper. A few minutes after, she heard a cry of fire, and looked out and saw a blaze on the roof of her neighbor's house, just kindling, close to the eaves on the side where the engine had passed. She threw down the stocking and went to help. The stocking was found after the fire with the mark just as she left it. So we claimed that we could tell pretty well how long the time had been between the passing of the train and the breaking out of the fire. Judge Metcalf, who was always fussy and interfering, said: "How can we tell anything by that, unless we know how large the stocking was?" The old lady, with a most bland smile, turned to the Judge as if she were soothing an infant, lifted up the hem of her petticoats, and exhibited a very sturdy ankle and calf, and said, "Just the size I wear, your Honor." There was a roar of laughter in the court-house. The incident was published in the morning paper the next day, much to the Judge's indignation. He addressed the audience when he came into Court in the morning, and said: "I see the Worcester *Spy* has been trying to put a fool's cap on my head."

Judge Metcalf told me this story about Chief Justice Parsons. The Chief Justice's manner to the Bar, as is well-known, was exceedingly rough. He was no respecter of persons, and treated the old and eminent lawyers quite as harshly as the youngsters. The Bar used to call him Ursa Major. The Chief Justice used to look over the pleadings carefully before the trials began. It was in the time when special pleading often brought the issue to be decided into a narrow compass. Soon after the case was begun, the Judge would take the case out of the hands of the counsel and examine the witnesses himself, and give an opinion which was likely to be implicitly followed by the jury. Jabez Upham, of Brookfield, in Worcester County, Mr. Jus-

tice Gray's grandfather, once sent his office-boy to Court with a green bag containing his papers, thinking there was no use in going himself. At last the leading members of the Bar in Boston got very angry, and four or five of them agreed together to teach the old Chief a lesson. So they sat down to a trial in the Supreme Court where Parsons was presiding. Pretty soon he interfered with the lawyer who was putting in the case for the plaintiff, in his rough way. The lawyer rose and said: "I cannot take care of my client's rights where my own are not respected," or something to that effect. "I will ask Brother Sullivan to take my place." Sullivan, who was possessed of the case, took the place. The trial went on a little while, when something happened which offended Sullivan. He rose and said he could not go on with the case after his Honor's remark, and would ask Brother So-and-So, perhaps Otis, to take his place. This happened three or four times in succession. The Chief Justice saw the point and adjourned the Court very early for the noon recess, and went to the house of his colleague, Judge Sewall, who lived out somewhere on the Neck, called him out and said: "You must go down and hold that Court. There is a con*spire*acy sir." Parsons never held a *nisi-prius* term in Suffolk again.

Chief Justice Shaw used to tell with great indignation the story of his first appearance before Parsons, when a young man. There was a very interesting question of the law of real property, and Samuel Dexter, then the head of the Bar, was on the other side. Parsons was interested in the question as soon as it was stated, and entered into a discussion with Dexter in which they both got earnestly engaged. The Chief Justice intimated his opinion very strongly and was just deciding it in Dexter's favor, when the existence of the young man on the other side occurred to him. He looked over the bar at Shaw and said: "Well, young man, do you think you can aid the Court any in this matter?" "I think I can, sir," said Shaw with spirit. Parsons listened to him, but, I believe, remained of his first opinion.

Judge Metcalf in the time when he was upon the Bench had the credit, I do not know how well deserved it was, of

not being much given to hospitality. He was never covetous, and he was very fond of society and conversation. But I fancy he had some fashions of his own in housekeeping which he thought were not quite up to the ways of modern life. At any rate, he was, so far as I know, never known to invite any of his brethren upon the Bench or of the Bar to visit him at his house, with one exception. One of the Judges told me that after a hard day's work in court the Judges sat in consultation till between nine and ten o'clock in the evening, and he walked away from the Court-House with Judge Metcalf. The Judge went along with him past the Tremont House, where my informant was staying. As they walked up School Street, he said: "Why, Judge Metcalf, I didn't know you went this way. I thought you lived out on the Neck somewhere." "No, sir," said Judge Metcalf, "I live at number so-and-so Charles Street, and I will say to you what I heard a man say the first night I moved into my present house. I heard a great noise in the street after midnight, and got up and put my head out of the window. There was a man lying on the sidewalk struggling, and another man, who seemed to be a policeman, was on top of him holding him down. The fellow with his back to the ground said: 'Let me get up, —— d—— you.' The policeman answered: "I sha'n't let you get up till you tell me what your name is and where you live.' The fellow answered, 'My name is Jerry Mahoney, — — d— — you, and I live at No. 54 Cambridge Street, — — d— — you, where I'd be happy to see you, — — d— — you, if you dare to call.'" That was the only instance known to his judicial brethren of Judge Metcalf's inviting a friend to visit him.

Judge Metcalf's legal opinions will read, I think, in the future, as well as those of any Judge of his time. They are brief, compact, written in excellent English, and precisely fit the case before him without any extraneous or superfluous matter. He would have been a very great Judge, indeed, if his capacity for the conduct of jury trials and dealing with *nisi-prius* business in general had equalled his ability to write opinions on abstract questions.

John Davis was never a Judge. But a few words about him may well find a place here. He had long since withdrawn from the practice of law when I came to Worcester. He remained in the Senate of the United States until March 4, 1853. But the traditions of his great power with juries remained. I was once or twice a guest at his house, and once or twice heard him make political speeches.

My father, who had encountered all the great advocates of his time in New England—Webster, Choate, Jeremiah Mason, Dexter—used to say that John Davis was the toughest antagonist he ever encountered. Mr. Davis had no graces of oratory or of person. He was not without a certain awkward dignity. His head was covered with thick and rather coarse white hair. He reminded you a little, in look and movement, of a great white bear. But he had a gift of driving his point home to the apprehension of juries and of the people which was rarely equalled. He was a man of few words and infrequent speech, without wit or imagination. He thoroughly mastered the subjects with which he dealt. When he had inserted his wedge, he drove it home with a few sledge-hammer blows. It was commonly impossible for anybody to extract it. It was only the great weight of his authority, and the importance of the matters with which he dealt, which kept him from seeming exceedingly tedious. I remember thinking when I heard him make a speech in behalf of General Scott in the City Hall, in the autumn of 1852, that if any man but John Davis were talking the audience could not be kept awake. He spoke very slowly, with the tone and manner of an ordinary conversation. "The Whigs, fellow-citizens, have presented for your suffrages this year, for the office of President of the United States, the name of Major-General Winfield Scott. I know General Scott. I have had good opportunity to acquaint myself with his character and public service. I think you may give him your confidence, gentlemen." That was pretty much the whole speech. At any rate, there was nothing more exciting in it. But it was John Davis that said it, and it had great effect upon his audience.

Mr. Davis supported General Taylor for President in 1848, thereby, on the one hand, offending Mr. Webster, with whom his relations had for some time been exceedingly strained, and the anti-slavery men in Massachusetts on the other. It was understood also that he had displeased Governor Lincoln at the time of his election to the Senate, Governor Lincoln thinking that Mr. Davis had taken an undue advantage of his official influence as Governor to promote his own selection. But the two united in the support of General Taylor, which led Charles Allen to quote a verse which has been more than once applied in the same way since. "And in that day Pilate and Herod were made friends together."

Mr. Davis was a careful and prudent manager of money matters, and left what was, for his time, a considerable estate, considering the fact that so much of his life had been passed in the public service. His success in public life was, doubtless, in large measure, increased by his accomplished and admirable wife, the sister of George Bancroft. She was a lady of simple dignity, great intelligence, great benevolence and kindness of heart. Her conversation was always most delightful, especially in her old age, when her mind was full of the treasures of her long experience and companionship with famous persons. Mr. Davis left five sons, all of them men of ability. The eldest has been Minister to Berlin, Assistant Secretary of State, Secretary of Legation in London, Judge of the Court of Claims, and Reporter of the decisions of the Supreme Court of the United States. Another son, Horace, has been a member of Congress, eminent in the public life of California, and, I believe, president of the University of California.

John Davis won great distinction by a very powerful speech on the tariff question in reply to James Buchanan. Buchanan was one of the most powerful Democratic leaders in the Senate, but Davis was thought by the Whigs to have got much the better of him in the debate. It was generally expected that he would be the Whig candidate for the Vice-Presidency in 1840. But another arrangement was made,

for reasons which may be as well told here. The Whig Convention to nominate a President was held at Harrisburg, Pa., in December 4, 1839, nearly a year before the election. The delegates from the different States were asked to consult together and agree upon their first choice. Then they were asked to say whom they thought next to the person they selected would be the strongest candidate. When the result was ascertained, it was discovered that William Henry Harrison was thought by a very large majority of the Convention to be the strongest candidate they could find. He was accordingly selected as the Whig standard-bearer. A committee of one person from each State was then chosen to propose to the Convention a candidate for Vice-President. Benjamin Watkins Leigh, of Virginia, was a strong supporter of Henry Clay, a man of great personal worth, highly esteemed throughout the country. The Convention adjourned, and came in after adjournment to hear the report of the committee. Mr. Leigh accosted the Chairman of the committee and stood with him in a conspicuous place as the delegates filed in. He inquired of the Chairman what conclusion they had come to as to a candidate for Vice-President. To which the Chairman replied: "You will be informed in due time." When the Convention was called to order, one of the delegates from Massachusetts made a speech in which he set forth the high qualities that were desired in a candidate for this important office, and, after giving a sketch of exalted character and great capacity for the public service, he ended by declaring that such a man was Mr. Leigh, of Virginia, and proposing his name as the unanimous recommendation of the committee. Mr. Leigh was taken aback. He had been a zealous supporter of Mr. Clay. He addressed the chair, saying he was much gratified by what had been said by his friend from Massachusetts, and he hoped he might live in some humble measure to deserve the tribute which had been paid to him. But he thought that having been a zealous supporter of Mr. Clay, and having had, in some sense, the charge of his candidacy, he could not himself accept a nomination in connection with

another person without exposing himself to the suspicion that he had in some way benefited by the defeat of his own candidate and leader. It was said that his embarrassment was increased by the fact that he had been seen conversing with the Chairman of the committee by the members of the Convention. How that is I do not know. The result was the nomination of Mr. Tyler, his election, his succession to the Presidency after the death of Harrison, which resulted in such disastrous consequences to the Whigs.

John Davis was a Federalist and a Whig. His sons were Whigs and Republicans always on the conservative side of public questions. His nephew, Colonel Isaac Davis, was in that respect a contrast to his uncle.

It has been charged that John Davis, by taking up the time at the close of the session of Congress by an indiscreet speech, was the means of defeating the Wilmot Proviso, which had come from the House inserted in a bill for the incorporation of Oregon as a Territory. This statement has received general circulation. It is made in Pierce's "Life of Sumner," and in Von Holst's "Constitutional History." There is no truth in it. I investigated the matter very carefully, and have left on record a conclusive refutation of the whole story in a paper published by the American Antiquarian Society.

Mr. Davis's popularity, however, enabled him to render an important service to his party at home. The Democrats in 1839 had elected their governor, Marcus Morton, by a majority of one vote by reason of the unpopularity of the law to prevent liquor-selling, known as the Fifteen-Gallon Law, which had been passed in January, 1838. They were anxious to redeem the State, and summoned John Davis, their strongest and most popular man, to lead their forces. He accordingly resigned his seat in the Senate, was chosen Governor by a large majority, and was reelected to the Senate again the next year.

Sketches like these, made by a man who was young when the men he is talking about were old, are apt to give prominence to trifles, to little foibles and eccentricities. Let no-

body think that there was anything trifling or ludicrous about John Davis. He was a great, strong, wise man, a champion and tower of strength. He not only respected, but embodied the great traditions and opinions of Massachusetts in the great days, after the generation of the Revolution had left the stage when she earned for herself the name of the "Model Commonwealth," and her people were building the structure of the Commonwealth on the sure foundations which the master-workmen of the Colonial and Revolutionary days had laid. The majestic presence of Webster, the classic eloquence of Everett, the lofty zeal of Sumner have made them more conspicuous figures in the public eye, and it is likely will preserve their memory longer in the public heart. But the figure of John Davis deserves to stand by the side of these great men in imperishable memory as one of the foremost men of the State he loved so well and served so faithfully and wisely.

The Bar of Worcester County in 1850 and the years following was a very able one, indeed. It had many men of high reputation in the Commonwealth and some of wide national fame. The principal citizen of Worcester and the most distinguished member of the Bar was Governor Levi Lincoln. Although he had long since left practice, he used always to come into the court once at each term of the Supreme Court, bow respectfully to the Bench, and invite the Judges to dinner at his house, and withdraw. He filled a very large place in the history of Massachusetts from the time of his graduation at Harvard in 1802 until the close of the War in 1865. There is, so far as I know, no memoir of him in existence, except one or two brief sketches which appear in the proceedings of some local societies of which he was a member.

His father, Levi Lincoln the elder, was an intimate friend and correspondent of Mr. Jefferson, and Attorney-General in his Cabinet. He was nominated Judge of the Supreme Court of the United States by Mr. Madison and confirmed by the Senate and actually appointed, but was unable to take the office because of failing sight. He did more, probably,

than any other man to organize and bring to success the political revolution in New England which followed Jefferson's accession to the Presidency in 1801. Many letters to him are found in Jefferson's published works, and there are many letters from him to Mr. Jefferson in the Jefferson papers in the archives at Washington. Some of the correspondence on both sides is enough to make the hair of the civil service reformer stand on end. The son adopted his father's political opinions and was an enthusiastic supporter of Jefferson in his youth. Jefferson wrote a letter, which I think is now in existence, praising very highly some of young Mr. Lincoln's early performances. He delivered an address in Worcester, March 4, 1803, a few months after he left college, in which he proposed that the Fourth of March, the day of Mr. Jefferson's accession to the Presidency, should be celebrated thereafter instead of the Fourth of July. He says: "Republicans no longer can hail the day as exclusively theirs. Federalism has profaned it. She has formed to herself an idol in the union of Church and State, and this is the time chosen to offer its sacrifice." He sets forth "the long train of monstrous aggressions of the Federalists" under Washington and Adams; declares that they "propose a hereditary executive and a Senatorial nobility for life," and says that the "hand would tremble in recording, and the tongue falter in reciting, the long tale of monstrous aggression. But on the Fourth of March was announced from the Capitol the triumph of principle. Swifter than Jove on his imperial eagle did the glad tidings of its victory pervade the Union. As vanish the mists of the morning before the rays of a sunbeam, so error withdrew from the presence of truth, and the deceptions of artifice from the inquiries of the understanding. The reign of terror had passed," etc., etc. But there never was a better example of Emerson's maxim that "a Conservative is a Democrat grown old and gone to seed." As the young man grew in reputation and influence he became more moderate in his opinions. He was appointed Judge of the Supreme Court; then was elected Governor by a union of all parties in what was called "the era of good feeling"; held the office

nine years; then represented the Worcester district in Congress, and withdrew to a dignified and honorable retirement from which he emerged to hold the office of Mayor of Worcester the first year of the life of the city. He was, as I remember him, the very embodiment of dignity and aristocracy. He had a diffuse and rather inflated style, both in public speaking and in private conversation. His dignity had a bare suspicion of pomposity in it. He looked with great disdain upon the simplicity of behavior of some of his successors, and their familiarity with all classes of the people. He came into my office one morning full of an intense disgust with something Governor Briggs had been doing. He said: "In my time, sir, the office of Governor of the Commonwealth was an office of dignity. The arrival of the Chief Magistrate in any town was an event of some importance. He travelled in his carriage, with suitable attendants. He appeared in public only on great occasions. But now you see hand-bills about the street giving notice that there is to be a Temperance tea-party to-morrow afternoon, in some vestry or small hall. Music by the Peak family. His Excellency George N. Briggs will address the meeting. Admission, ten cents."

He accepted his position at the head of the social life of Worcester as matter of course. I remember one night, when a party was breaking up, I said to the person next to me, in some jesting fashion: "I am sorry to see the decay of the old aristocracy." The Governor, who was getting his coat at the other end of the room, overheard the remark, and called out: "Who is lamenting our decay?"

The Governor looked with great disgust upon the formation of the Free Soil Party and the Anti-Slavery movement. But when the war came he remained thoroughly loyal. He encouraged enlistment in every way, and measures for the support of the Government had all the weight of his influence. He was a Presidential elector, and voted for Abraham Lincoln at the time of his second election.

When Webster was first chosen Senator he refused to be a candidate for the office until it was ascertained whether Governor Lincoln would accept it. The Governor then de-

clined, for the reason I have stated in another place. He was also offered an appointment to the Senate by Governor Washburn when Mr. Everett resigned in 1853. But it is said that he was quite desirous of being elected Senator when Mr. Davis was first chosen.

The Governor was, as just said, an example of Emerson's famous saying that a Conservative is a Democrat grown old and gone to seed. He was looked upon as the embodiment of reverend dignity. His household was at the head of the social life of Worcester during his later years. Every family in the County was proud who could trace a connection with his. There were a few traditions in the old Federalist families like the Thomases and the Allens of a time when the Lincolns were accounted too democratic to be respectable. But they gained little credence with people in general. One day, however, I had to try a real estate case which arose in the adjoining town and involved an ancient land-title. An old man named Bradyill Livermore was summoned as a witness for my client. He was, I think, in his ninety-fifth year. He lived in a sparsely settled district and had not been into Worcester for twenty or twenty-five years. I sat down with him in the consultation-room. After he had told me what he knew about the case, I had a chat with him about old times and the changes in Worcester since his youth, and he asked me about some of the members of the Bar then on the stage. Governor Lincoln, who had long retired, happened to be mentioned. The old fellow brought the point of his staff down with great emphasis upon the floor, and then held it loosely with the fingers of his trembling and shaking hand, and said, very earnestly, but with a shrill and strident voice like that of one of Homer's ghosts: "They say, sir, that that Mr. Lincoln has got to be a very respectable man. But I can remember, sir, when he was a terrible Jacobite."

I have given elsewhere a portraiture of Charles Allen, and a sketch of his great career. He was a man of slender physical frame and feeble voice. But he was a leader of leaders. When in 1848 he left the Whig Convention in Philadelphia, an assembly flushed with the anticipation of National tri-

umph, declaring, amid the jeers and hisses of its members, that the Whig Party was dead—a prediction verified within four years—down to the election of Lincoln, in 1860, he was in Massachusetts a powerful influence. He was a great advocate, a great judge, a great counsellor. He was in my judgment a greater intellectual force than any other man in his time, Daniel Webster not excepted. It was a force before which Webster himself more than once recoiled. I knew him intimately and was, I believe, admitted to no inconsiderable share of his confidence. But there is no space here to do justice to my reverence for his noble character.

On the whole, the most successful of the Worcester Bar, in my time, in the practice of his profession, was Emory Washburn. He was a man of less intellectual power undoubtedly than either of his great contemporaries and antagonists, Allen, Merrick, or Thomas. Yet he probably won more cases, year in and year out, than either of them. He was a man of immense industry. He went to his office early in the morning, took a very short time, indeed, for his meals, and often kept at work until one or two o'clock in the morning of the next day. He suffered severely at one time from dyspepsia brought on by constant work and neglect of exercise; but generally he kept his vigorous health until his death at the age of eighty. He was indefatigable in his service to his clients. His mind was like a steel spring pressing on every part of the other side's case. It was ludicrous to see his sympathy and devotion to his clients, and his belief in the cause of any man whom he undertook to champion. It seemed as if a client no sooner put his hand on the handle of Washburn's office-door than his heart warmed to him like that of a mother toward her first-born. No strength of evidence to the contrary, no current of decisions settling the law would prevent Washburn from believing that his man was the victim of prejudice or persecution or injustice. But his sincerity, his courtesy of manner and kindness of heart made him very influential with juries, and it was rare that a jury sat in Worcester County that had not half a dozen of Washburn's clients among their number.

I was once in a very complicated real estate case as Washburn's associate. Charles Allen and Mr. Bacon were on the other side. Mr. Bacon and I, who were juniors, chatted about the case just before the trial. Mr. Bacon said: "Why, Hoar, Emory Washburn doesn't understand that case the least in the world." I said: "No, Mr. Bacon, he doesn't understand the case the least in the world. But you may depend upon it he will make that jury misunderstand it just as he does." And he did.

Charles Allen, who never spared any antagonist, used to be merciless in dealing with Washburn. He once had a case with him which attracted a great deal of public attention. There had been a good many trials and the cost had mounted up to a large sum. It was a suit by a farmer who had lost a flock of sheep by dogs, and who tried to hold another farmer responsible as the owner of the dog which had killed them. One of the witnesses had been out walking at night and heard the bark of the dog in the field where the sheep were. He was asked to testify if he could tell what dog it was from the manner of his bark. The evidence was objected to, and Allen undertook to support his right to put the question. He said we were able to distinguish men from each other by describing their manner and behavior, when the person describing might not know the man by name. "For instance, may it please your Honor, suppose a stranger who came into this court-house during this trial were called to testify to what took place, and he should say that he did not know anybody in the room by sight, but there was a lawyer there who was constantly interrupting the other side, talking a great deal of the time, but after all didn't seem to have much to say. Who would doubt that he meant my Brother Washburn?"

This gibe is only worth recording as showing the court-house manners of those times. It is no true picture of the honest, faithful and beloved Emory Washburn. He was public-spirited, wise, kind-hearted, always ready to give his service without hope of reward or return to any good cause, a pillar of the town, a pillar of the church. He had sometimes a certain confusion of statement and of thought, but

it was only apparent in his oral discourse. He wrote two admirable law-books, one on easements, and one on real property. Little & Brown said his book on easements had the largest sale of any law-book ever published in this country up to its time. He was a popular and useful Professor in the Harvard Law School. He gave a great deal of study to the history of Massachusetts, and was the author of some valuable essays on historical questions, and some excellent discourses on historical occasions. He left no duty undone. Edward Hale used to say: "If you want anything done well, go to the busiest man in Worcester to do it—Emory Washburn, for example." He was grievously disappointed that he was not appointed Judge of the Supreme Court when Judge Thomas became a member of the Bench. A little while afterward there was another vacancy, and Governor Clifford took Merrick, another of Washburn's contemporaries and rivals at the bar, although Merrick was a Democrat, and the Governor, like Washburn himself, was a Whig. This was almost too much for him to bear. It took place early in the year 1853. Mr. Washburn sailed for Europe a few weeks after, and felt almost like shaking off the dust of his feet against Massachusetts and the Whig Party. But he was very agreeably compensated for his disappointment. During his absence he was nominated by the Whigs for the office of Governor, to which office he was elected in the following January, there being then, under our law, which required a clear majority of all the votes, no choice by the people. He made an admirable and popular Governor. But the Nebraska Bill was introduced in that year. This created strong excitement among the people of Massachusetts, and the Know-Nothing movement came that fall, inspired more by the desire of the people to get rid of the old parties, and form a new anti-slavery party, than by any real opposition to foreigners, which was its avowed principle. This party swept Massachusetts, electing all the State officers and every member of the State Legislature except two from the town of Northampton. They had rather a sorry Legislature. It was the duty of the outgoing Governor to administer the oath to the Representatives- and Senators-

elect. Governor Washburn performed that duty, and added: "Now, gentlemen, so far as the oath of office is concerned, you are qualified to enter upon your duties."

Governor Washburn was a thorough gentleman, through and through, courteous, well-bred, and with an entirely sufficient sense of his own dignity. But he had little respect for any false notions of gentility, and had a habit of going straight at any difficulty himself. To this habit he owed much of his success in life. A very amusing story was told by Mrs. Washburn long after her husband's death. She was one of the brightest and sprightliest and wittiest of women. Her husband owed to her much of his success in life, as well as much of his comfort and domestic enjoyment. She used to give sometimes half a dozen entertainments in the same week. She was never disconcerted by any want of preparation or suddenness of demand upon her hospitality. One day some quite distinguished guests arrived in Worcester unexpectedly, whom it was proper that she should keep to dinner. The simple arrangements which had been made for herself and her husband would not do. She accordingly went at once to the principal hotel of the town, in the neighborhood, and bargained with the landlord to send over the necessary courses for her table, which were just hot and cooked and ready for his own. She got off very comfortably without being detected.

Her story was that one time when Judge Washburn was Governor the members of his Staff came to Worcester on some public occasion and were all invited to his house to spend the night. When he got up in the morning he found, to his consternation, that the man who was in the habit of doing such services at his house was sick, or for some other reason had failed to put in an appearance, and none of the boots of the young gentlemen were blacked. The Governor was master of the situation. He descended to his cellar, took off his coat, blacked all the boots of the youngsters himself, and met them at breakfast with his usual pleasant courtesy, as if nothing had happened.

I do not undertake to give a full sketch of Benjamin F. Thomas. He was one of the very greatest of American

lawyers. But such desultory recollections as these are apt to dwell only on the eccentricities or peculiarities or foibles of men. They are not the place for elaborate and noble portraiture.

Judge Thomas was the principal figure in the Worcester court-house after Judge Allen's election to Congress in 1848. Judge Thomas did not get large professional business very rapidly. He was supposed, in his youth, to be a person of rather eccentric manners, studious, fond of poetry and general literature and of historical and antiquarian research. He was impulsive, somewhat passionate, but still with an affectionate, sunny, generous nature, and a large heart, to which malice, hatred, or uncharitableness were impossible. It is said that in his younger days he used to walk the streets, wrapped in his own thoughts, unconscious of the passers-by, and muttering poetry to himself. But when I came into his office as a student, in August, 1849, all this trait had disappeared. He was a consummate advocate, a favorite alike with Judges and jurors, winning his causes wherever success was possible, and largely employed. He had a clear voice, of great compass, pitched on rather a high key, but sweet and musical like the sound of a bugle. The young men used to fill the court-house to hear his arguments to juries. He became a very profound lawyer, always mastering the learning of the case, but never leaning too much upon authorities. Charles Emerson's beautiful phrase in his epitaph on Professor Ashmun, "Books were his helpers, never his masters," was most aptly applied to Thomas. If he had any foible which affected at all his usefulness or success in life it was an impatience of authority, whether it were the authority of a great reputation, or of party, or of public sentiment, or of the established and settled opinions of mankind. He went on the Supreme Bench in 1853. Dissenting opinions were rare in the Massachusetts Supreme Court in those days. In this I think the early Judges were extremely wise. Nothing shakes the authority of a court more than the frequent habit of individual dissent. But Judge Thomas dissented from the judgments of his court on several very important occasions. His dis-

senting opinions were exceedingly able. I think it would have been better if they had not been delivered. I think he would have been much more likely to have come to the other conclusion if the somewhat imperious intellect of Shaw had not been put into the prevailing scale. When all Massachusetts bowed down to Webster, Judge Thomas, though he respected and honored the great public idol, supported Taylor as a candidate for the Presidency. At the dinner given to the Electoral College after the election, where Mr. Webster was present, Judge Thomas shocked the meeting by saying: "Some persons have spoken of our candidate as their second choice. I am proud to say that General Taylor was not only my last, but my first choice." So, when Judge Thomas was in Congress, while he was as thoroughly loyal, patriotic, and brave a man as ever lived, he opposed the policies of the Republican Party for carrying on the war and putting down the Rebellion. He was thought to be inspired by a great dislike of submitting to party authority or even to that of President Lincoln. He was very fond of young men. When he was Judge they always found that they had all the consideration that they deserved, and had no fear of being put at a disadvantage by any antagonist, however able or experienced. The Judge seemed always to be stirred by the suggestion of an intellectual difficulty. When I was seeking some remedy at his hands, especially in equity, I used to say that I thought I had a just case, but I was afraid his Honor might think the legal difficulties were insuperable and I did not know whether I could get his Honor's approbation of what I asked. He would instantly rouse himself and seem to take the suggestion as a challenge, and if it were possible for human ingenuity to find a way to accomplish what I wanted he would do it. He preserved the sweetness and joyous spirit of boyhood to the day of his death. It was delightful to catch him when he was at leisure, to report to him any pleasant story that was going about, and to hear his merry laugh and pleasant voice. He was a model of the judicial character. It was a delight to practise before him at *nisi prius*. I have known a great many admirable lawyers and

a good many very great Judges. I have known some who had more learning, and some, I suppose, though very few, who had greater vigor of intellect. But no better Judge ever sat in a Massachusetts court-house. Dwight Foster felicitously applied to him the sentence which was first uttered of Charles James Fox, that "his intellect was all feeling, and his feeling all intellect."

Dwight Foster came to the Bar just a week after I did. But I ought not to omit him in any account of the Massachusetts lawyers or Judges of my time. He rose rapidly to a place in the first rank of Massachusetts lawyers, which he held until his untimely death. He was graduated the first scholar in his class at Yale in 1848. Before he was graduated he became engaged to a very admirable and accomplished lady, daughter of Roger S. Baldwin, Governor of Connecticut and United States Senator, then head of the Connecticut Bar. This lady had some tendency to a disorder of the lungs and throat which had proved fatal to two of her brothers. Dwight Foster was very anxious to get her away from New Haven, where he thought the climate and her habit of mingling in gay society very unfavorable to her health. So he set himself to work to get admitted to the Bar and get established in business that he might have a place for her in Worcester. He was examined by Mr. Justice Metcalf, after studying a little more than a year, and found possessed of attainments uncommon even for persons who had studied the full three years and had been a good while at the Bar. Judge Metcalf admitted him, and on some other Judge criticising what he had done, the Judge said, with great indignation, "If he thinks Foster is not qualified, let him examine him himself."

Mr. Foster's first employment had very awkward consequences. The people in Worcester had the old Puritanic dislike to theatrical entertainments, and had always refused to license such exhibitions. But a company of actors desired to obtain a theatre for the season and give performances in Worcester. There was great opposition, and the city government ordered a public hearing of the petition in the old City Hall. Foster was employed by the petitioners.

The hall was crowded with citizens interested in the matter, and the Mayor and Aldermen sat in state on the platform. When the hearing was opened, the audience were struck with astonishment by the coming forward of Dwight Foster's father, the Hon. Alfred D. Foster, a highly honored citizen of great influence and ability. He had been in the State Senate and had held some few political offices, but had disliked such service and had never practised law, having a considerable property which he had inherited from his father, the former United States Senator. He made a most eloquent and powerful appeal to the aldermen to refuse the petition, in the name of morality and good order. He stated the deplorable effect of attending such exhibitions on the character of the youth of the city of both sexes, cited the opinion and practice of our ancestors in such matters, and made a profound impression. He then warned his hearers against the young man who was to follow him, whom, he said, he loved as his life, but he was there employed as a lawyer with his fee in his hand, without the responsibility which rested upon them of protecting the morals and good order of the city. It was very seldom that so powerful a speech was heard in that hall, although it was the cradle of the Anti-slavery movement, and had been the scene of some of the most famous efforts of famous orators. Everybody supposed that the youth was crushed and would not venture to perform his duty in the face of such an attack. But he was fully equal to the occasion. He met his father with a clear, simple, modest, but extremely able statement of the other side; pointed out the harmlessness of such exhibitions when well conducted, and that the strictness which confounded innocence and purity with guilt and vice was itself the parent and cause of vice. He did not allude to his father by name or by description, but in replying to his arguments said: "It is said in some quarters," or "An opposition comes from some quarters" founded on such-and-such reasons. He got the sympathy of his audience and carried his point. And from that time nobody hesitated to trust Dwight Foster with any cause, however important, from any doubt of his capacity to take care of his clients.

He had been brought up as a Whig. But when the Nebraska Bill was passed, he became a zealous and earnest Republican. He was candidate for Mayor, but defeated on a very close vote by George W. Richardson. He held the office of Judge of Probate for a short time, by appointment of Governor Banks; was elected Attorney-General in 1860 when Governor Andrew was chosen Governor, and soon after was appointed Judge of the Supreme Court, an office which he filled with great distinction, then left the Bench to resume his practice, and died of a disease of the heart which he inherited from his ancestors. He was Governor Andrew's Attorney-General during the War, who said of him that "he was full of the fire and hard-working zeal of Massachusetts." He was the organ of the patriotism and energy of Worcester at the seat of government during the war, looking out for the interests of her soldiers, and always urging the brave and vigorous counsel. I lost a stanch friend by his death. I can sum up his qualities in no better way than by the word "manliness." He never uttered an ignoble word, thought an ignoble thought, or did an ignoble act. His method of speech was clear, simple, spirited, without much pathos or emotion, but still calculated to stir and move his hearers.

I had more intimate relations with Judge Thomas L. Nelson than with any other member of the Worcester Bar except those with whom I formed a partnership. We were never in partnership. But after I went to Congress in 1869, he moved into my office until his appointment to the Bench. So when I was at home we were in the same room. He had been accustomed for a long time before to employ me to assist him in important trials before the jury and in arguments before the Supreme Court. I suppose I am responsible for his appointment to the District Court, although the original suggestion was not mine. After the death of Judge Shepley, there was a general expectation that Judge John Lowell, of the District Court, would be made Circuit Judge. One morning one of the Boston papers suggested several names for the succession, among them that of Mr. Knowlton, of Springfield, and Mr. Nelson. I said nothing

to him. But he observed: "I see in a paper that I am spoken of as District Judge." I replied: "Yes, I saw the article." Neither of us said anything further on the subject. When I got to Washington I met Mr. Devens, then Attorney-General, who said, "We shall have to appoint a District Judge, I suppose. I think your friend Nelson is the best man for it. But I suppose he would not accept it." I said: "No, I don't believe he would accept it. But, if you think he is the best man for it, the question whether he will accept it ought to be determined by him, and not by his friends for him." I had no thought that Mr. Nelson would leave his practice for the Bench. But I thought it would be a very agreeable thing to him to have the offer. I wrote to him a day or two afterward that I thought it likely he would be offered the place. He answered by asking me, if it were to be offered to him, how much time would be given to him to consider the matter. Soon after I was informed by Attorney-General Devens that the President had offered him the place on the Circuit Bench, and that he very much desired to accept it. But he thought that, although the President had put the place at his disposal, he was very unwilling to have any change in the Cabinet, and doubted whether he ought to accept the offer unless he were very sure the President was willing to spare him. One day soon after, President Hayes sent for me to come to see him. I called at the Attorney-General's office, told him the President had sent for me, and that he probably wished to speak about the Circuit Judgeship, and I wanted to know what he would like to have me say. Devens said that he should prefer that way of spending the rest of his life to any other. But the President had done him a great honor in inviting him to his Cabinet, and he did not wish to leave him unless he were sure that the President was willing. I went to the White House. When President Hayes opened the subject, I told him what was the Attorney-General's opinion. The President said that if he could be sure that were true, it would relieve his mind of a great burden. I told him he could depend upon it. The President said he did not know anybody else whom he should be as willing to have in his

Cabinet as Devens, unless I myself would consent to accept the place. He gave a little friendly urging in that direction. I told him that I had lately been elected to the Senate after a considerable controversy, and that I did not think I could in justice to the people of the State make a vacancy in the office which would occasion a new strife. I called on Devens on my way back, and reported to him what the President had said. He immediately went to the White House, and they had a full understanding, which resulted in Devens keeping his place in the Cabinet through the Administration.

It was then suggested that while Judge Lowell was a most admirable District Judge, and in every way an admirable lawyer, yet that it would be better if it were possible to get one of the leaders of the Bar, who would supply what Judge Lowell lacked—the capacity for charging juries on facts, and presiding at jury trials, and to leave him in the District Court, where his services were so valuable. The office of Circuit Judge was accordingly offered to Mr. William G. Russell. I wrote to Nelson, asking him to consider my first letter on the subject as not having been written. Mr. Russell replied, declining the place, and saying, with great emphasis, that he was sorry the President should hesitate a moment about offering the place to Judge Lowell, whom he praised very highly. But the President and the Attorney-General thought that it should be offered to Mr. George O. Shattuck, a very eminent lawyer and advocate. On inquiry, however, it turned out that Mr. Shattuck, who was in poor health, was absent on a journey, and it was so unlikely that he would accept the offer that it was thought best not to diminish the value and honor to Judge Lowell of the place by offering it further to another person. Accordingly the place was offered to Judge Lowell and accepted by him.

General Devens then said to me: "I have been thinking over the matter of the District Judge, and I think if a man entirely suitable can be found in the Suffolk Bar, that the appointment rather belongs to that Bar, and I should like, if you have no objection, to propose to the President to offer it to Mr. Charles Allen." Mr. Allen was later Judge of the Supreme Court of Massachusetts. I assented, but said: "If

Mr. Allen refuses it, I hope it will then be offered to Mr. Nelson, in accordance with your original opinion." The Attorney-General agreed. The offer was made to Mr. Allen, and by him declined. When the letter of refusal came, the Attorney-General and I went together to the White House and showed the President the letter. In the meantime a very strong recommendation of Mr. Oliver Wendell Holmes, Jr., now of the Supreme Court, had been received by the President. He felt a good deal of interest in Holmes. I think they had both been wounded in the same battle. But, at any rate, they were comrades. The President then said: "I rather think Holmes is the man." I then gave him my opinion of Mr. Nelson, and the President said to Devens: "Do you agree, Mr. Attorney-General?" Devens said: "I do." And the President said: "Then Nelson be it." Mr. Nelson, to my surprise, accepted the appointment.

Judge Nelson was a master of equity and bankruptcy. No doctrine was too subtle or abstruse for him. The matter of marshalling assets, or the tacking of mortgages, and such things which require a good deal of the genius of the mathematician, were clear to his apprehension. He was one of the two or three men in the State who ever understood the complications of the old loan-fund associations. He was especially a master of legal remedies. He held on like a bull-dog to a case in the justice of which he believed. When you had got a verdict and judgment in the Supreme Court against one of Nelson's clients, he was just ready to begin work. Then look out for him. He had with this trait also a great modesty and diffidence. If anybody put to him confidently a proposition against his belief, Nelson was apt to be silent, but, as Mr. Emerson said of Samuel Hoar, "with an unaltered belief." He would come out with his reply days after. When he came to state the strong point in arguing his case, he would sink his voice so it could hardly be heard, and look away like a bashful maiden giving her consent. Judge Bigelow told me, very early in Nelson's career, that he wished I would ask my friend to make his arguments a little longer, and to raise his voice so the court could hear him better. They always found his arguments

full of instruction, and disliked to lose anything so good a lawyer had to say. His value as a Judge was largely in consultation and in his sound opinions. I suppose that, like his predecessor, Judge Lowell, he was not the very best of Judges to preside at jury trials, or to guide juries in their deliberations. Indeed, Nelson had many of the intellectual traits—the same merits and the same defects that Lowell had. Lowell was a man of great wit, and a favorite with the Boston Bar when he was appointed. So they made the best of him. They were not inclined to receive Nelson's appointment very graciously. It was some years before he established a high place in their confidence and esteem. But it was established before his death. Gray and Putnam and Webb, all in their way lawyers of the first class, found Nelson a most valuable and acceptable associate, and have all spoken of him in most enthusiastic terms. He was a good naturalist. He knew the song-birds, their habits, and dwelling-places. He knew all the stars. He liked to discuss difficult and profound questions of public policy, constitutional law, philosophy, and metaphysics. Sometimes, when I came home from Washington after a period of hard work, if I happened to find Nelson in the cars when I went to Boston, it was almost painful to spend the hour with him, although his conversation was very profound and interesting. But it was like attempting to take up and solve a difficult problem in geometry. I was tired, and wanted to be humming a negro melody to myself. He was a man of absolute integrity, not caring whether he pleased or displeased anybody. He had a good deal of literary knowledge, was specially fond of Emerson, and knew him very thoroughly, both prose and verse. He had a good deal of wit, one of the brightest examples of which I will not undertake to quote here. He was a civil engineer in his youth, and was always valuable in complicated questions of boundary, or cases like our sewer and water cases, which require the application of practical mathematics. He was a friendly and placable person so far as he was concerned himself, but resented, with great indignation, any unkindness toward any of his friends or household. His friend and associate, Judge Webb, after

his death spoke with great beauty and pathos of Nelson's love of nature and of his old country home:

"When, in later years, he revisited the scenes of his childhood, he made no effort to conceal his affection for them; as he wandered among the mountains and along the valleys, so dearly remembered, his eye would grow bright, his face beam with pleasure, and his voice sound with the tone of deep sensibility. He grew eloquent as he described the beauty spread out before him, and lovingly dwelt on the majesty and grandeur of the mountain at the foot of which his infancy was cradled. It was high companionship to be with him at such times. His ear was open to catch the note of every bird, which came to him like voices of well-beloved friends; he knew the brooks from their sources to their mouths, and the rivers murmured to him the songs they sang in the Auld Lang Syne. But deep as was the joy of these visits, they did not allure him from the more rugged paths of labor and duty."

The wisdom of Nelson's selection, if it need vindication, is abundantly established by the memorial of him reported by a committee, of which Lewis S. Dabney was chairman, and adopted by the Suffolk Bar. The Bar, speaking of the doubt expressed in the beginning by those who feared an inland lawyer on the Admiralty Bench, goes on to say:

"Those who knew him well, however, knew that he had been a successful master and referee in many complicated cases of great importance; that his mathematical and scientific knowledge acquired in his early profession as an engineer was large and accurate, and would be useful in his new position; that he who had successfully drawn important public acts would be a successful interpreter of such acts; that always a student approaching every subject, not as an advocate but as a judicial observer, he would give that attention to whatever was new among the problems of his judicial office that would make him their best master and interpreter, and that what in others might be considered weakness or indolence was but evidence of a painful shrinking from dis-

playing in public a naturally firm, strong, earnest and persistent character, a character which would break out through the limitations of nature whenever the occasion required it.

"Those who, as his associates upon the Bench, or as practitioners before him at the Bar, have had occasion to watch his long and honorable career, now feel that the judgment of his friends was the best and that his appointment has been justified; and those who have known him as an Associate Justice of the Circuit Court of Appeals have felt this even more strongly."

Another striking figure of my time was Horace Gray. He was in the class before me at Harvard, though considerably younger. I knew him by sight only in those days. He was very tall, with an exceedingly youthful countenance, and a head that looked then rather small for so large-limbed a youth—rather awkward in his gait and bearing. But after he reached manhood he grew into one of the finest-looking men of his time. I believe he was the tallest man in Boston. He expanded in every way to a figure which corresponded with his stately height. He was the grandson of the famous William Gray, the great merchant and shipowner of New England, who was an important figure in the days just preceding and just following the War of 1812. Many anecdotes are still current of his wise and racy sayings. His sons inherited large fortunes and were all of them men of mark and influence in Boston. Francis C. Gray, the Judge's uncle, was a man of letters, a historical investigator. He discovered the priceless Body of Liberties of 1641, which had remained unprinted from that time, although the source from which our Bill of Rights and constitutional provisions had been so largely drawn.

Judge Gray's father was largely employed in manufacturing and owned some large iron works. The son had been brought up, I suppose, to expect that his life would be one of comfort and ease, free from all anxieties about money, and the extent of the labor of life would be, perhaps, to visit the counting-room a few hours in the day to look over the books and see generally that his affairs were properly con-

ducted by his agents and subordinates. He had visited Europe more than once, and was abroad shortly after his graduation when the news reached him that the companies in which has father's fortune was invested had failed. He at once hurried home and set himself resolutely to work to take care of himself. He was an accomplished naturalist for his age and time, and had a considerable library of works on natural history. He exchanged them for law-books and entered the Law School. I was splitting wood to make my own fire one autumn morning when my door, which was ajar, was pushed open, and I saw a face somewhere up in the neighborhood of the transom. It was Gray, who had come to inquire what it was all about. He had little knowledge of the rules or fashions of the Law School. I told him about the scheme of instruction and the hours of lectures, and so forth. We became fast friends, a friendship maintained to his death. He at once manifested a very vigorous intellect and a memory, not only for legal principles, but for the names of cases, which I suppose had been cultivated by his studies in natural history and learning the scientific names of birds and plants. At any rate, he became one of the best pupils in the Law School. He afterward studied law with Edward D. Sohier, and immediately after his admission became known as one of the most promising young men at the Bar. Luther S. Cushing was then Reporter of the decisions of the Supreme Court. He was in poor health and employed Gray to represent him as Reporter on the Circuit. Gray always had a marvellous gift of remembering just where a decision of a principle of law could be found, and his thumb and forefinger would travel instantly to the right book on the obscurest shelf in a Law Library. So nothing seemed to escape his thorough and indefatigable research. When he was on the Circuit, learned counsel would often be arguing some question of law for which they had most industriously prepared, when the young Reporter would hand them a law-book with a case in it which had escaped their research. So the best lawyers all over the State got acquainted at an early day with his learning and industry, and when Cushing soon after was obliged to resign the office of

Reporter, Gray was appointed by the general consent of the best men of the profession, although he had as a competitor Judge Perkins, a very well known lawyer and Judge, who had edited some important law-books and was a man of mature age. This was in 1854, only three years after his admission to the Bar. The office of Reporter was then one of the great offices of the State, almost equal in dignity to that of the Judge of the Supreme Court itself. Four of our Massachusetts Reporters have been raised to that Bench. He was quite largely retained and employed during that period, especially in important questions of commercial law. He resigned his office of Reporter about the time of the breaking out of the war. Governor Andrew depended upon his advice and guidance in some very important and novel questions of military law, and in 1864 he was appointed Associate Justice of the Court. In 1873 he became its Chief Justice, and in 1882 was made Associate Justice of the Supreme Court of the United States. The extent of his learning and the rapidity and thoroughness of his research were marvellous. But it is not upon this alone, or chiefly, that his fame as one of the great Judges of the world will rest. He was a man of a native, original intellectual power, unsurpassed by any man who has been on the Bench in his time, either in this country or in England. His decisions have been as sound and as acceptable to the profession upon questions where no authority could be found upon which to rest, and upon questions outside of the beaten paths of jurisprudence as upon those where he found aid in his great legal learning. He was a remarkably acceptable *nisi-prius* Judge when holding court in the rural counties, and, though bred in a city, where human nature is not generally learned so well, he was especially fortunate and successful in dealing with questions of fact which grow out of the transactions of ordinary and humble life in the country. He manifested on one or two occasions the gift of historical research and discussion for which his uncle Francis was so distinguished.

It was my sorrowful duty to preside at a meeting of the Bar of the Supreme Court of the United States to express

their sense of their great loss and that of the whole country, after Gray's death.

I add some extracts from the remarks which I made on that occasion:

The Bar of the Supreme Court of the United States come together to pay a tribute of honor to a great lawyer and Judge. I shall have, I am sure, another opportunity to put on record my own sense of the irreparable loss of a dear friend and comrade of more than fifty years. To-day we are to speak, as members of the Bar, of an honored Judge whom the inexorable shaft has stricken in his high place.

He was in his seat in the Supreme Court of the United States for the last time Monday, February 3, 1902. On the evening of that day he had a slight paralytic shock, which seriously affected his physical strength. He retained his mental strength and activity unimpaired until just before his death. On the 9th day of July, 1902, he sent his resignation to the President, to take effect on the appointment and qualifying of his successor. So, he died in office, September 15, 1902.

On the mother's side Judge Gray was the grandson of Jabez Upham, one of the great lawyers of the day, who died in 1811, at the age of forty-six, after a brief service in the National House of Representatives. He was settled in Brookfield, Worcester County. But the traditions of his great ability were fresh when I went there to live, nearly forty years after his death. The memory of the beauty and sweetness and delightful accomplishment of Mr. Upham's daughter, Judge Gray's mother, who died in the Judge's early youth, was still fragrant among the old men and women who had been her companions. She is mentioned repeatedly in the letters of that accomplished Scotch lady —friend of Walter Scott and of so many of the English and Scotch men of letters in her time—Mrs. Grant of Laggan. Mrs. Grant says in a letter published in her Memoir: "My failing memory represents my short intercourse with Mrs. Gray as if some bright vision from a better world had come and, vanishing, left a trail behind." In another letter she

speaks of the enchantment of Mrs. Gray's character: "Anything so pure, so bright, so heavenly I have rarely met with."

The title, which the kindness of our countrymen has given to Massachusetts, that of Model Commonwealth, I think has been earned largely by the character of her Judiciary, and never could have been acquired without it. Among the great figures that have adorned that Bench in the past, the figure of Justice Gray is among the most conspicuous and stately.

Judge Gray has had from the beginning a reputation for wonderful research. Nothing ever seemed to escape his industry and profound learning. This was shown on a few occasions when he undertook some purely historical investigation, as in his notes on the case of the Writs of Assistance, argued by James Otis and reported in Quincy's Reports, and his recent admirable address at Richmond, on Chief Justice Marshall. But while all his opinions are full of precedent and contain all the learning of the case, he was, I think, equally remarkable for the wisdom, good sense, and strength of his judgments. I do not think of any Judge of his time anywhere, either here or in England, to whom the profession would ascribe a higher place if he be judged only by the correctness of his opinions in cases where there were no precedents on which to lean and for the excellent original reasons which he had to give. I think Judge Gray's fame, on the whole, would have been greater as a man of original power if he had resisted, sometimes, the temptation to marshal an array of cases, and had suffered his judgments to stand on his statement of legal principles without the authorities. He manifested another remarkable quality when he was on the Bench of Massachusetts. He was an admirable *nisi-prius* Judge. I think we rarely have ever had a better. He possessed that faculty which made the jury, in the old days, so admirable a mechanism for performing their part in the administration of justice. He had the rare gift, especially rare in men whose training has been chiefly upon the Bench, of discerning the truth of the fact, in spite of the apparent weight of the evidence.

That Court, in his time, had exclusive jurisdiction of divorces and other matters affecting the marital relations. The Judge had to hear and deal with transactions of humble life and of country life. It was surprising how this man, bred in a city, in high social position, having no opportunity to know the modes of thought and of life of poor men and of rustics, would settle these interesting and delicate questions, affecting so deeply the life of plain men and country farmers, and with what unerring sagacity he came to the wise and righteous result.

Judge Gray's opinions for the eighteen years during which he sat on the Bench of Massachusetts constitute an important body of jurisprudence, from which the student can learn the whole range of the law as it rests on principle and on authority.

And so it came to pass when the place of Mr. Justice Clifford became vacant that by the almost universal consent of the New England Circuit, with the general approval of the profession throughout the whole country, Mr. Justice Gray became his successor. Of his service here there are men better qualified to speak than I am. He took his place easily among the great Judges of the world. He has borne himself in his great office so, I believe, as to command the approbation of his countrymen of all sections and of all parties. He has been every inch a Judge. He has maintained the dignity of his office everywhere. He has endeared himself to a large circle of friends here at the National Capital by his elegant and gracious hospitality. His life certainly has been fortunate. The desire of his youth has been fulfilled. From the time, more than fifty years ago, when he devoted himself to his profession, there has been, I suppose, no moment when he did not regard the office of a Justice of the Supreme Court as not only the most attractive but also the loftiest of human occupations. He has devoted himself to that with a single purpose. He has sought no fame or popularity by any other path. Certainly his life has been fortunate. It has lasted to a good old age. But the summons came for him when his eye was not dimmed nor his natural force abated. He drank of the cup

of the waters of life while it was sweetest and clearest, and was not left to drink it to the dregs. He was fortunate also, almost beyond the lot of humanity, in that by a rare felicity, the greatest joy of youth came to him in an advanced age. Everything that can make life honorable, everything that can make life happy—honor, success, the consciousness of usefulness, the regard of his countrymen, and the supremest delight of family life—all were his. His friends take leave of him as another of the great and stately figures in the long and venerable procession of American Judges.

Next to Judge Wilde in seniority upon the Bench among the associate Judges was Mr. Justice Charles A. Dewey of Northampton. He had had a good deal of experience as a prosecuting attorney in a considerable general practice in the western part of the State. He was careful in his opinions never to go beyond what was necessary for the case at bar. It is said that there is no instance that any opinion of his was ever overruled in a very long judicial service.

Judge Dewey was a man of absolute integrity and faithful in the discharge of his judicial duty. He had no sentiment and, so far as I ever knew, took little interest in matters outside of his important official duties. He was very careful in the management of property. When the Democrats were in power in Massachusetts in 1843 they reduced the salaries of the Judges of the Supreme Court in violation of the Constitutional provision. Chief Justice Shaw refused to touch a dollar of his salary until the Legislature the next year restored the old salary and provided for the payment of the arrears. Judge Dewey held out for one quarter. But the next quarter he went quietly to the State House, drew his quarter's salary, went down on to State Street and invested it, and did the same every quarter thereafter.

In the days of my early practice the Supreme Court used to sit in Worcester for about five or six weeks, beginning in April. It had exclusive jurisdiction of real actions, and limited equity jurisdiction. All suits where the matter in issue was more than three hundred dollars might be brought originally in that court or removed there by the defendant

from the Common Pleas if the plaintiff began it below. So the court had a great deal of business. It also had jurisdiction of divorce cases, appeals from the Probate Court and some special writs such as habeas corpus, certiorari and mandamus. But after all, the old Court of Common Pleas was the place where the greater part of the law business of the county was transacted. There were at first four civil terms in the year, and, after Fitchburg became a half shire, there were two more terms held there. The Common Pleas had jurisdiction of all crimes except capital.

There were some very interesting characters among the old Judges of the Common Pleas. Among the most remarkable was Judge Edward Mellen, who was first side Judge and afterward Chief Justice. He was a man of great law-learning, indefatigable industry and remarkable memory for cases, diffuse and long-winded in his charges, and apt to take sides. He took everything very seriously. It is said that he would listen to the most pathetic tale of human suffering unmoved, but would burst into tears at the mention of a stake and stones or two chestnut staddles.

Mellen with the other Judges of the old Common Pleas Court was legislated off the Bench by the abolition of that court in 1858. He moved from Middlesex to Worcester and resumed practice, but was never largely employed. He was a repository of the old stories of the Middlesex Bar, many of which died with him.

A Lowell lawyer told me this story of Judge Mellen. My informant had in his office a law student who spent most of his time in reading novels and poetry and writing occasionally for the newspapers. He was anxious to get admitted to the Bar and had crammed for the examination. In those days, unless the applicant had studied three years, when he was admitted as of course, the Judge examined him himself. The Judge was holding court in Concord, and an arrangement was made that the youngster should go to the Judge's room in the evening and submit himself to the examination. He kept the appointment, but in about ten minutes came out. My informant, who had recommended him, asked him what was the matter. He said he didn't know.

The Judge had asked him one question only. He was sure he answered it right, but the Judge immediately dismissed him with great displeasure. The next morning the lawyer went up to Judge Mellen in court and said, "Judge, what was the matter with the young man last night? Did you not find him fitted?"

"Fitted?" said the Judge, "No sir. I asked him what was the rule in Shelley's Case, and he told me the rule in Shelley's Case was that when the father was an atheist the Lord Chancellor would appoint a guardian for his children."

"Ah," was the reply, "I see. The trouble is that neither of you ever heard of the other's Shelley."

Judge Byington of Stockbridge in Berkshire used to come to Worcester a great deal to hold the old Common Pleas Court. He was an excellent lawyer and an excellent Judge—dry, fond of the common law, and of black letter authorities. He had a curious habit of giving his charge in one long sentence without periods, but with a great many parentheses. But he had great influence with the juries and was very sound and correct in his law. I once tried a case before him for damages for the seizure of a stock of liquors under the provisions of the Statute of 1852, known as the Maine Liquor Law, which had been held unconstitutional by the Supreme Court. He began: "The Statute of 1852 chapter so-and-so gentlemen of the jury commonly known as the Maine Liquor Law which has created great feeling throughout this Commonwealth some very good men were in favor of it and some very good men were against it read literally part of it would be ridiculous and you may take your seats if you please gentlemen of the jury I shall be occupied some time in my charge and I do not care to keep you standing and some of it would be absurd and some of it reads very well." And so on.

A neighbor of Judge Byington from Berkshire County was Judge Henry W. Bishop of Stockbridge. He was an old Democratic politician and at one time the candidate of his party for Governor. He was not a very learned lawyer, but was quick-witted and picked up a good deal from

the arguments of counsel. Aided by a natural shrewdness and sense, he got along pretty well. He had a gift of rather bombastic speech. His exuberant eloquence was of a style more resembling that prevalent in some other parts of the country than the more sober and severe fashion of New England. Just before he came to the Bench he was counsel in a real estate case in Springfield where Mr. Chapman, afterward Chief Justice of the Supreme Court, was on the other side. The evidence of recent occupation and the monuments tended in favor of Chapman's client. But it turned out that the one side had got a title under the original grant of the town of Blandford, and the other under the original grant of an adjoining town, and that the town line had been maintained from the beginning where Bishop claimed the true line to be. When he came to that part of the case, he rose mightily in his stirrups. Turning upon Chapman, who was a quiet, mild-mannered old gentleman, he said: "The gentleman's eyes may twinkle like Castor and Pollux, twin stars; but he can't wink out of sight that town line of Blandford. He may place one foot on Orion and the other on Arcturus, and seize the Pleiades by the hair and wring all the water from their dripping urns; but he can't wash out that town line of Blandford." The local newspaper got hold of the speech and reported it, and it used to be spoken occasionally by the school boys for their declamation. Bishop is said to have been much disturbed by the ridicule it created, and to have refused ever to go to Springfield again on any professional employment.

Judge Aldrich was appointed to the Bench of the Superior Court of Massachusetts by Governor William B. Washburn after I left the practice of the law for public life. I appeared before him in a very few cases and must take his judicial quality largely from the report of others. He was a very powerful and formidable advocate, especially in cases where moral principles or the family relations were concerned, or where any element of pathos enabled him to appeal to the jury. The most tedious hours of my life, I think, have been those when I was for the defendant and he for the plaintiff, and I had to sit and listen to his closing

argument in reply to mine. He had a gift of simple eloquence; the influence with juries which comes from earnestness and the profound conviction of the righteousness of the cause he advocated, and the weight of an unsullied personal character and unquestioned integrity.

Mr. Aldrich's appointment to the Bench came rather late in his life, so he was not promoted to the Supreme Court, which would undoubtedly have happened if he had been younger. He was an excellent magistrate and the author of one or two valuable law books. Although my chief memories of him are of the many occasions on which I have crossed swords with him, and of battles when our feelings and sympathy were profoundly stirred, still they are of the most affectionate character. He had a quick temper and was easily moved to anger in the trial of a case. But as an eminent western Judge is reported to have said in speaking of some offence that had been committed at the Bar: "This Court herself are naterally quick-tempered." So the sparks of our quarrels went out as quickly as they were kindled. I think of P. Emory Aldrich as a stanch and constant friend, from whom, so long as his life lasted, I received nothing but friendliest sympathy and constant and powerful support.

Judge Aldrich, as I just said, was a man of quick temper. He was ready to accept any challenge to a battle, especially one which seemed to have anything of personal disrespect in it. I was present on one occasion when the ludicrous misspelling of a word, it is very likely, saved him from coming to blows with a very worthy and well-known citizen of Worcester County. Colonel Artemus Lee, of Templeton, one of the most estimable citizens of northern Worcester County, a man imperious and quick-tempered, who had been apt to have his own way in the region where he dwelt, and not very willing to give up to anybody, employed me once to bring a suit for him against the Town of Templeton to recover taxes which he claimed had been illegally assessed and collected. He was a man whose spelling had been neglected in early youth. Aldrich was for the Town. All the facts showing the illegality of the assessment, of course,

were upon the Town records. So we thought if the parties met with their counsel we could agree upon a statement of facts and submit the question of law to the court. We met in Judge Aldrich's office, Colonel Lee and myself and Judge Aldrich and some of the Town officers, to make up the statement. But Mr. Aldrich had not had time to look very deeply into the law of the case, and made some difficulties in agreeing upon the facts, which we thought rather unreasonable. We sat up to a late hour in a hot summer evening trying to get at a statement. At last Lee's patience gave out. He had had one or two hot passages at arms with Mr. Aldrich in the course of the discussion already. He rose to his feet and said in a very loud and angry tone—his voice was always something like that of a bull of Basham—"This is a farce." Aldrich rose from his seat and to the occasion and said very angrily, "What's that you say, Sir?" Lee clenched both his fists by his side, thrust his own angry countenance close up to that of his antagonist, and said, "A farce, Sir—F-A-R-S-E, Farce." Aldrich caught my eye as I was sitting behind my client and noticed my look of infinite amusement. His anger yielded to the comedy of the occasion. He burst into a roar of laughter and peace was saved. If Lee had spelled the word farce with a "c," there would have been a battle royal.

CHAPTER XXXIX

POLITICAL AND RELIGIOUS FAITH

I CLOSE this book with a statement of the political principles which I think define the duty of the American people in the near future, and from which I hope the Republic will not depart until time shall be no more; and of the simple religious faith in which I was bred, and to which I now hold.

They cannot to my mind be separated. One will be found in some resolutions offered in the Senate December 20, 1899. The other in what I said on taking the chair at the National Unitarian Conference, at Washington, in October, 1899.

"Mr. Hoar submitted the following resolution:

"WHEREAS the American people and the several States in the Union have in times past, at important periods in their history, especially when declaring their Independence, establishing their Constitutions, or undertaking new and great responsibilities, seen fit to declare the purposes for which the Nation or State was founded and the important objects the people intend to pursue in their political action; and

"WHEREAS the close of a great war, the liberation by the United States of the people of Cuba and Porto Rico in the Western Hemisphere and of the Philippine Islands in the far East, and the reduction of those peoples to a condition of practical dependence upon the United States, constitute an occasion which makes such a declaration proper: Therefore, be it

"*Resolved,* That this Republic adheres to the doctrines which were in the past set forth in the Declaration of Independence and in its National and State constitutions.

"*Resolved,* That the purpose of its existence and the objects to which its political action ought to be directed are

the ennobling of humanity, the raising from the dust its humblest and coarsest members, and the enabling of persons coming lawfully under its power or influence to live in freedom and in honor under governments whose forms they are to have a share in determining and in whose administration they have an equal voice. Its most important and pressing obligations are:

"First. To solve the difficult problem presented by the presence of different races on our own soil with equal Constitutional rights; to make the Negro safe in his home, secure in his vote, equal in his opportunity for education and employment, and to bring the Indian to a civilization and culture in accordance with his need and capacity.

"Second. To enable great cities to govern themselves in freedom, in honor, and in purity.

"Third. To make the ballot box as pure as a sacramental vessel, and the election return as perfectly in accord with the law and the truth as the judgment of the Supreme Court.

"Fourth. To banish illiteracy and ignorance from the land.

"Fifth. To secure for every workman and for every working woman wages enough to support a life of comfort and an old age of leisure and quiet, as befits those who have an equal share in a self-governing State.

"Sixth. To grow and expand over the continent and over the islands of the sea just so fast, and no faster, as we can bring into equality and self-government under our Constitution peoples and races who will share these ideals and help to make them realities.

"Seventh. To set a peaceful example of freedom which mankind will be glad to follow, but never to force even freedom upon unwilling nations at the point of the bayonet or at the cannon's mouth.

"Eighth. To abstain from interfering with the freedom and just rights of other nations or peoples, and to remember that the liberty to do right necessarily involves the liberty to do wrong; and that the American people has no right to take from any other people the birthright of freedom because of a fear that they will do wrong with it."

Speech on Taking the Chair at the National Unitarian Conference, in Washington, October, 1899

"The part assigned to me, in the printed plan of our proceedings, is the delightful duty of bidding you welcome. But you find a welcome from each other in the glance of the eye, in the pressure of the hand, in the glad tone of the voice, better than any that can be put into formal words.

> From hand to hand the greeting goes;
> From eye to eye the signals run;
> From heart to heart the bright hope glows:
> The seekers of the light are one.

Every Unitarian, man and woman, every lover of God or His Son, every one who in loving his fellow-men loves God and His Son, even without knowing it, is welcome in this company.

"We are sometimes told, as if it were a reproach, that we cannot define Unitarianism. For myself, I thank God that it is not to be defined. To define is to bound, to enclose, to set limit. The great things of the universe are not to be defined. You cannot define a human soul. You cannot define the intellect. You cannot define immortality or eternity. You cannot define God.

"I think, also, that the things we are to be glad of and to be proud of and are to be thankful for are not those things that separate us from the great body of Christians or the great body of believers in God and in righteousness, but in the things that unite us with them. No Five Points, no Athanasian Creed, no Thirty-nine Articles, separate the men and women of our way of thinking from humanity or from Divinity.

"But still, although we do not define Unitarianism, we know our own when we see them. There are men and women who like to be called by our name. There are men and women for whom Faith, Hope, and Charity forever abide; to whom Judea's news are still glad tidings; who believe that one day Jesus Christ came to this earth, bearing a Divine message and giving a Divine example. There are

women who bear their own sorrows of life by soothing the sorrows of others; youths who, when Duty whispers low, 'Thou must,' reply, 'I can'; and old men to whom the experience of life has taught the same brave lesson; examples of the patriotism that will give its life for its country when in the right, and the patriotism that will make itself of no reputation, if need be, to save its country from being in the wrong.

"They do not comprehend the metaphysics of a Trinal Unity, nor how it is just that innocence should be punished, that guilt may go free. They do not attribute any magic virtue to the laying on of hands; nor do they believe that the traces of an evil life in the soul can be washed out by the sprinkling of a few drops of water, however pure, or by baptism in any blood, however innocent, in the hour of death. But they do understand the Ten Commandments and the Golden Rule, and they know and they love and they practise the great virtues which the Apostle tells us are to abide.

"I think there can be found in this country no sectarianism so narrow, so hide-bound, so dogma-clad, that it would like to blot out from the history of the country what the men of our faith have contributed to it. On the first roll of this Washington parish will be found close together the names of John C. Calhoun and John Quincy Adams. John Quincy Adams had learned from his father and mother the liberal Christian faith he transmitted to his illustrious son. If we would blot out Unitarianism from the history of the country, we must erase the names of many famous statesmen, many famous philanthropists, many great reformers, many great orators, many famous soldiers, from its annals, and nearly all of our great poets from its literature.

"I could exhaust not only the time I have a right to take, but I could fill the week if I were to recall their names and tell the story of their lives. Still less could I speak adequately of the men and women who, in almost every neighborhood throughout the country, have found in this Unitarian faith of ours a stimulant to brave and noble lives and a sufficient comfort and support in the hour of a brave death.

As I stand here on this occasion, my heart is full of one memory,—of one who loved our Unitarian faith with the whole fervor of his soul, who in his glorious prime, possessing everything which could make life happy and precious, the love of wife and children and friends, the joy of professional success, the favor of his fellow-citizens, the fulness of health, the consciousness of high talent, heard the voice of the Lord speaking from the fever-haunted hospital and the tropical swamp, and the evening dews and damps, saying, 'Where is the messenger that will take his life in his hand, that I may send him to carry health to my stricken soldiers and sailors?' When the Lord said, 'Whom shall I send?' he answered, 'Here am I: send me.'*

"The difference between Christian sects, like the difference between individual Christians, is not so much in the matter of belief or disbelief of portions of the doctrine of the Scripture as in the matter of *emphasis*. It is a special quality and characteristic of Unitarianism that Unitarians everywhere lay special emphasis upon the virtue of Hope. It was said of Cromwell by his secretary that hope shone in him like a fiery pillar when it had gone out in every other.

"There are two great texts in the Scripture in whose sublime phrases are contained the germs of all religion, whether natural or revealed. They lay hold on two eternities. One relates to Deity in his solitude,—'Before Abraham was, I am.' The other is for the future. It sums up the whole duty and the whole destiny of man: 'And now abideth Faith, Hope, and Charity,—these three.' If Faith, Hope, and Charity abide, then Humanity abides. Faith is for beings without the certainty of omniscience. Hope is for beings without the strength of omnipotence. And Charity, as the apostle describes it, affects the relations of beings limited and imperfect to one another.

"Why is it that this Christian virtue of Hope is placed as the central figure of the sublime group who are to accompany the children of God through their unending life? It

* Sherman Hoar, who after a brilliant public and professional career, gave his life to his country by exposure in caring for the sick soldiers of the Spanish war.

is because without it Faith would be impossible and Charity would be wasted.

"Hope is that attribute of the soul which believes in the final triumph of righteousness. It has no place in a theology which believes in the final perdition of the larger number of mankind. Mighty Jonathan Edwards,—the only genius since Dante akin to Dante,—could you not see that, if your world exist where there is no hope and where there is no love, there can be no faith? Who can trust the promise of a God who has created a Universe and peopled it with fiends? The Apostle of your doleful gospel must preach quite another Evangel: And now abideth Hate, and now abideth Wrath, and now abideth Despair, and now abideth Woe unutterable. With Hope, as we have defined it,—namely, the confident expectation of the final triumph of righteousness,—we are but a little lower than the angels: without it we are but a kind of vermin.

"The literature of free countries is full of cheer: the story ends happily. The fiction of despotic countries is hopeless. People of free countries will not tolerate a fiction which teaches that in the end evil is triumphant and virtue is wretched. Want of hope means either distrust of God or a belief in the essential baseness of man or both. It teaches men to be base. It makes a country base. A world wherein there is no hope is a world where there is no virtue. The contrast between the teacher of hope and the teacher of despair is to be found in the pessimism of Carlyle and the serene cheerfulness of Emerson. Granting to the genius of Carlyle everything that is claimed for it, I believe that his chief title hereafter to respect as a moral teacher will be found in Emerson's certificate.

"But I must not detain you any longer from the business which waits for this convention. It is the last time that I shall enjoy the great privilege and honor of occupying this chair.

"Perhaps I may be pardoned, as I have said something of the religious faith of my fellow Unitarians, if I declare my own, which I believe is theirs also. I have no faith in fatalism, in destiny, in blind force. I believe in God, the living

God, in the American people, a free and brave people, who do not bow the neck or bend the knee to any other, and who desire no other to bow the neck or bend the knee to them. I believe that the God who created this world has ordained that his children may work out their own salvation and that his nations may work out their own salvation by obedience to his laws without any dictation or coercion from any other. I believe that liberty, good government, free institutions, cannot be given by any one people to any other, but must be wrought out for each by itself, slowly, painfully, in the process of years or centuries, as the oak adds ring to ring. I believe that a Republic is greater than an Empire. I believe that the moral law and the Golden Rule are for nations as well as for individuals. I believe in George Washington, not in Napoleon Bonaparte; in the Whigs of the Revolutionary day, not in the Tories; in Chatham, Burke, and Sam Adams, not in Dr. Johnson or Lord North. I believe that the North Star, abiding in its place, is a greater influence in the Universe than any comet or meteor. I believe that the United States when President McKinley was inaugurated was a greater world power than Rome in the height of her glory or even England with her 400,000,000 vassals. I believe, finally, whatever clouds may darken the horizon, that the world is growing better, that to-day is better than yesterday, and to-morrow will be better than to-day."

CHAPTER XL

EDWARD EVERETT HALE

To give a complete and truthful account of my own life, the name of Edward Everett Hale should appear on almost every page. I became a member of his parish in Worcester in August, 1849. Wherever I have been, or wherever he has been, I have been his parishioner ever since. I do not undertake to speak of him at length not only because he is alive, but because his countrymen know him through and through, almost as well as I do.

He has done work of the first quality in a great variety of fields. In each he has done work enough to fill the life and to fill the measure of fame of a busy and successful man. I have learned of him the great virtue of Hope; to judge of mankind by their merits and not their faults; to understand that the great currents of history, especially in a republic, more especially in our Republic, are determined by great and noble motives and not by mean and base motives.

In his very best work Dr. Hale seems always to be doing and saying what he does and says extempore, without premeditation. Where he gets the time to acquire his vast stores of knowledge, or to think the thoughts we all like to hear, nobody can tell. When he speaks or preaches or writes, he opens his intellectual box and takes the first appropriate thing that comes to hand.

I do not believe we have a more trustworthy historian than Dr. Hale, so far as giving us the motive and pith and essence of great transactions. He is sometimes criticised for inaccuracy in dates or matters that are trifling or incidental. I suppose that comes from the fact that while he stores away in his mind everything that is essential, and trusts to his memory for that, he has not the time, which less

busy men have, to verify every unsubstantial detail before he speaks or writes. Sir Thomas Browne put on record his opinion of such critics in the "Christian Morals."

"Quotation mistakes, inadvertency, expedition and human Lapses, may make not only Moles but Warts in learned Authors, who notwithstanding, being judged by the capital matter, admit not of disparagement. I should unwillingly affirm that Cicero was but slightly versed in Homer, because in his Work *De Gloria* he ascribed those verses unto Ajax, which were delivered by Hector. Capital Truths are to be narrowly eyed, collateral Lapses and circumstantial deliveries not to be too strictly sifted. And if the substantial subject be well forged out, we need not examine the sparks which irregularly fly from it."

When Dr. Hale was eighty years old, his countrymen manifested their affection for him in a manner which I think no other living man could have commanded. It was my great privilege to be asked to say to him what all men were thinking, at a great meeting in Boston. The large and beautiful hall was thronged with a very small portion of his friends. If they had all gathered, the City itself would have been thronged. I am glad to associate my name with that of my beloved teacher and friend by preserving here what I said. It is a feeble and inadequate tribute.

The President of the United States spoke for the whole country in the message which he sent:

White House, Washington, Mar. 25, 1902.

My dear Sen. Hoar: I very earnestly wish I could be at the meeting over which you are to preside in honor of the eightieth birthday of Edward Everett Hale. A classical allusion or comparison is always very trite; but I suppose all of us who have read the simpler classical books think of Timoleon in his last days at Syracuse, loved and honored in his old age by the fellow citizens in whose service he had spent the strength of his best years, as one of the noblest

and most attractive figures in all history. Dr. Hale is just such a figure now.

We love him and we revere him. We are prouder of our citizenship because he is our fellow citizen; and we feel that his life and his writings, both alike, spur us steadily to fresh effort toward high thinking and right living.

To have written "The Man Without a Country" by itself would be quite enough to make all the nation his debtor. I belong to the innumerable army of those who owe him much, and through you I wish him Godspeed now.

Ever faithfully yours,

THEODORE ROOSEVELT.

I spoke as follows:

"If I try to say all that is in my heart to-night, I do not know where to begin. If I try to say all that is in your hearts, or in the hearts of his countrymen, I do not know where to leave off. Yet I can only say what everybody here is silently saying to himself. When one of your kindred or neighbors comes to be eighty years old, after a useful and honored life, especially if he be still in the vigor of manly strength, his eye not dim or his natural force abated, his children and his friends like to gather at his dwelling in his honor, and tell him the story of their gratitude and love. They do not care about words. It is enough if there be pressure of the hand and a kindly and loving glance of the eye. That is all we can do now. But the trouble is to know how to do it when a man's friends and lovers and spiritual children are to be counted by the million. I suppose if all the people in this country, and, indeed in all the quarters of the globe, who would like to tell their gratitude to Dr. Hale, were to come together to do it, Boston Common would not hold them.

"There is once in a while, though the quality is rare, an author, a historian, or a writer of fiction, or a preacher, or a pastor, or an orator or a poet, or an influential or beloved citizen, who in everything he says or does seems to be sending a personal message from himself. The message is in-

spired and tinctured and charged and made electric with the quality of the individual soul. We know where it comes from. No mask, no shrinking modesty can hide the individuality. Every man knows from whom it comes, and hails it as a special message to himself. We say, That is from my friend to me! The message may be read by a million eyes and reach a million souls. But every one deems it private and confidential to him.

"This is only, when you come to think of it, carrying the genius for private and personal friendship into the man's dealing with mankind. I have never known anybody in all my long life who seemed to me to be joined by the heart-strings with so many men and women, wherever he goes, as Dr. Hale. I know in Worcester, where he used to live; I know in Washington, where he comes too seldom, and where for the last thirty-three years I have gone too often, poor women, men whose lives have gone wrong, or who are crippled in body or in mind, whose eyes watch for Dr. Hale's coming and going, and seem to make his coming and going, if they get a glimpse of him, the event they date from till he comes again. To me and my little household there, in which we never count more than two or three, his coming is the event of every winter.

"Dr. Hale has not been a founder of a sect. He has never been a builder of partition walls. He has helped throw down a good many. But still, without making proclamation, he has been the founder of a school which has enlarged and broadened the Church into the Congregation, and which has brought the whole Congregation into the Church.

"When he came, hardly out of his boyhood, to our little parish in Worcester, there was, so far as I know, no Congregational church in the country whether Unitarian or of the ancient Calvinistic faith, which did not require a special vote and ceremonial of admission to entitle any man to unite with his brethren in commemorating the Saviour as he desired his friends and brethren to remember him by the rite of the last supper. Until then, the Christian communion was but for a favored few. Mr. Hale believed that the greater the sinfulness of the individual soul the greater the need and

the greater the title to be taken into the fellowship and the brotherhood of the Saviour of souls. So, without polemical discussion, or any heat of controversy, he set the example which has been so widely followed. This meant a great deal more than the abolition of a ceremonial or the change of a rubric. It was an assertion of the great doctrine, never till of late perfectly comprehended anywhere, that the Saviour of men came into the world inspired by the love of sinners, and not for an elect and an exclusive brotherhood of saints.

"We are not thinking chiefly of another world when we think of Dr. Hale or when we listen to him. He has been telling us all his life that what the theologians call two worlds are but one; that the Kingdom of God is here, within and around you; that there is but one Universe and not two; that the relation of man to God is that of father and child, not of master and slave, or even of sovereign and subject; that when man wields any of the great forces of the Universe, it is God also who is wielding them through him; that the power of a good man is one of God's powers, and that when man is doing his work faithfully the supreme power of God's omnipotence is with him.

"Dr. Hale has done a good many things in his own matchless fashion. He would have left a remarkable name and fame behind him if he had been nothing but a student and narrator of history, as he has studied and told it; if he had been nothing but a writer of fiction—the author of 'The Man Without a Country,' or 'Ten Times One is Ten,' or 'In His Name'—if he had done nothing but organize the Lend a Hand Clubs, now found in the four quarters of the world; if he had been nothing but an eloquent Christian preacher; if he had been nothing but a beloved pastor; if he had been only a voice which lifted to heaven in prayer the souls of great congregations; if he had been only a public-spirited citizen, active and powerful in every good word and work for the benefit of this people; if he had been only the man who devised the plan that might have saved Texas from slavery, and thereby prevented the Civil War, and which did thereafter save Kansas; if he had been only remembered

as the spiritual friend and comforter of large numbers of men and women who were desolate and stricken by poverty and sorrow; if he had been only a zealous lover of his country, comprehending, as scarcely any other man has comprehended, the true spirit of the American people; if he had been any one of these things, as he has been, it would be enough to satisfy the most generous aspiration of any man, enough to make his life worth living for himself and his race. And yet, and yet, do I exaggerate one particle, when I say that Dr. Hale has been all these, and more?

"Edward Everett Hale has been the interpreter of a pure, simple loving and living faith to thousands and thousands of souls. He has taught us that the fatherhood and tenderness of God are manifested here and now in this world, as they will be hereafter; that the religion of Christ is a religion of daily living; that salvation is the purifying of the soul from sin, not its escape from the consequences of sin. He is the representative and the incarnation of the best and loftiest Americanism. He knows the history of his country, and knows his countrymen through and through. He does not fancy that he loves his country, while he dislikes and despises his countrymen and everything they have done and are doing. The history he loves and has helped to write and to make is not the history of a base and mean people, who have drifted by accident into empire. It is the history of such a nation as Milton conceived, led and guided by men whom Milton would have loved. He will have a high and a permanent place in literature, which none but Defoe shares. He possesses the two rarest of gifts, that to give history the fascination of fiction, and that to give fiction the verisimilitude of history. He has been the minister of comfort in sorrow and of joy in common life to countless persons to whom his friendship is among their most precious blessings, or by whose fireside he sits, personally unknown, yet a perpetual and welcome guest.

"Still, the first duty of every man is to his own family. He may be a warrior or a statesman, or reformer, or philanthropist, or prophet or poet, if he careth not first for his own

household, he is worse than an infidel. So the first duty of a Christian minister is still that of a pastor to his own flock. You know better than I do how it has been here in Boston; but every one of our little parish in Worcester, man or woman, boy or girl, has felt from the first time he or she knew him, ever afterward, that Dr. Hale has been taking hold of his hand. That warmth and that pressure abide through all our lives, and will abide to the end. There are countless persons who never saw his face, who still deem themselves his obedient, loving and perpetual parishioners.

"I knew very well a beautiful woman, left widowed, and childless, and solitary, and forlorn, to whom, after every other consolation seemed to have failed to awake her from her sorrow and despair, a friend of her own sex said: 'I thought you were one of Edward Hale's girls.' The appeal touched the right chord and brought her back again to her life of courage and Christian well-doing.

"He has ever been a prophet of good hope and a preacher of good cheer. When you have listened to one of his sermons, you have listened to an evangel, to good tidings. He has never stood aloof from the great battles for righteousness or justice. When men were engaged in the struggle to elevate the race for the good of their fellow men, no word of discouragement has ever come from his lips. He has recalled no memory of old failure in the past. He has never been found outside the ranks railing at or criticising the men who were doing the best work, or were doing the best work they knew how to do. He has never been afraid to tackle the evils that other men think hopeless. He has uttered his brave challenge to foemen worthy of his steel. Poverty and war and crime and sorrow are the enemies with whom he has striven.

"I do not know another living man who has exercised a more powerful influence on the practical life of his generation. He has taught us the truth, very simple, but somehow nobody ever got hold of it till he did, that virtue and brave living, and helping other men, can be made to grow by geometrical progression. I am told that Dr. Hale has more correspondents in Asia than the London *Times*. I

cannot tell how many persons are enrolled in the clubs of which he was the founder and inspirer.

"But I am disqualified to do justice to the theme you have assigned to me. For an impartial verdict you must get an impartial juryman. You will have to find somebody that loves him less than I do. You cannot find anybody who loves him more. To me he has been a friend and father and brother and counsellor and companion and leader and instructor; prophet of good hope, teacher of good cheer. His figure mingles with my household life, and with the life of my country. I can hardly imagine either without him. He has pictured for us the infinite desolation of the man without a country. But when his time shall come, what will be the desolation of the country without the man!

"And now what can we give you who have given us so much? We have something to give on our side. We bring you a more costly and precious gift than any jewel or diadem, though it came from an Emperor's treasury.

Love is a present for a mighty King.

"We bring you the heart's love of Boston where you were born, and Worcester where you took the early vows you have kept so well; of Massachusetts who knows she has no worthier son, and of the great and free country to whom you have taught new lessons of patriotism, and whom you have served in a thousand ways.

"This prophet is honored in his own country. There will be a place found for him somewhere in the House of many Mansions. I do not know what will be the employment of our dear friend in the world whose messages he has been bringing to us so long. But I like to think he will be sent on some errands like that of the presence which came to Ben Adhem with a great wakening light, rich and like a lily in bloom, to tell him that the name of him who loved his fellow men led all the names of those the love of God had blessed."

APPENDIX

THE FOREST OF DEAN

By John Bellows

The Forest of Dean, in Gloucestershire, is one of the very few primeval Forests of Britain that have survived to this century. It has just been my privilege to accompany Senator Hoar on a drive through a portion of it, and he has asked me to write a few notes on this visit, for the American Antiquarian Society, in the hope that others of its members may share in the interest he has taken in its archæology.

I am indebted for many years' acquaintance with George F. Hoar, through Oliver Wendell Holmes, to the circumstance that the Hoar family lived in Gloucester from the time of the Tudors, if not earlier; and this has led him to pay repeated visits to our old city, with the object of tracing the history of his forefathers. In doing this he has been very successful; and only within the last few months my friend H. Y. J. Taylor, who is an untiring searcher of our old records, has come upon an item in the expenses of the Mayor and Burgesses, of a payment to Charles Hoar, in the year 1588, for keeping a horse ready to carry to Cirencester the tidings of the arrival of the Spanish Armada. And Charles Hoar's house is with us to this day, quaintly gabled, and with over-hanging timber-framed stories, such as the Romans built here in the first century. It stands in Longsmith Street, just above the spot where forty years ago I looked down on a beautiful tessellated pavement of, perhaps, the time of Valentinian. It was eight feet below the present surface; for Gloucester, like Rome, has been a rising city.

Senator Hoar had been making his headquarters at Malvern, and he drove over from there one afternoon, with a

view to our going on in the same carriage to the Forest. A better plan would have been to run by rail to Newnham or Lydney, to be met by a carriage from the "Speech House," a government hotel in the centre of the woods; but as the arrangement had been made we let it stand.

To give a general idea of the positions of the places we are dealing with, I may say that Upton Knoll, where I am writing, stands on the steep edge of a spur of the Cotteswold Hills, three and a half miles south of Gloucester. Looking north, we have before us the great vale, or rather plain, of the Severn, bounded on the right by the main chain of the Cotteswolds, rising to just over one thousand feet; and on the left by the hills of Herefordshire, and the beautiful blue peaks of the Malverns; these last being by far the most striking feature in the landscape, rising as they do in a sharp serrated line abruptly from the plain below. They are about ten miles in length, and the highest point, the Worcestershire Beacon, is some fourteen hundred feet above the sea. It is the spot alluded to in Macaulay's lines on the Armada—

Till twelve fair counties saw the blaze on Malvern's lonely height;

and two hundred years before the Armada it was on "Malvern hulles" that William Langland "forwandered" till he fell asleep and dreamed his fiery "Vision of Piers Plowman"—

In a somere season, when softe was the sonne

when, looking "esteward, after the sonne" he beheld a castle on Bredon Hill

Truthe was ther-ynne

and this great plain, that to him symbolized the world.

A fair feld ful of folke fonde ich ther bytwyne;
Alle manere of men; the mene and the ryche.

Now, in the afternoon light, we can see the towns of Great and North Malvern, and Malvern Wells, nestling at foot of the steep slant; and eight miles to the right, but over

thirty from where we stand, the cathedral tower of Worcester. The whole plain is one sea of woods with towers and steeples glinting from every part of it; notably Tewkesbury Abbey, which shines white in the sunlight some fourteen miles from us. Nearer, and to the right, Cheltenham stretches out under Cleeve Hill, the highest of the Cotteswolds; and to the left Gloucester, with its Cathedral dwarfing all the buildings round it. This wooded plain before us dies away in the north into two of the great Forests of ancient Britain; Wyre, on the left, from which Worcester takes its name; and Feckenham, on the right, with Droitwich as its present centre. Everywhere through this area we come upon beautiful old timber-framed houses of the Tudor time or earlier; Roman of origin, and still met with in towns the Romans garrisoned, such as Chester and Gloucester, though they have modernized their roofs, and changed their diamond window panes for squares, as in the old house of Charles Hoar's, previously mentioned.

Now if we turn from the north view to the west, we get a different landscape. Right before us, a mile off, is Robin's Wood Hill, a Cotteswold outlier; in Saxon times called "Mattisdun" or "Meadow-hill," for it is grassed to the top, among its trees. "Matson" House, there at its foot, was the abode of Charles I. during his siege of Gloucester in 1643. To the left of this hill we have again the Vale of the Severn, and beyond it, a dozen miles away, and stretching for twenty miles to the southwest are the hills of the Forest of Dean. They are steep, but not lofty—eight hundred or nine hundred feet. At their foot yonder, fourteen miles off, is the lake-like expanse of the Severn; and where it narrows to something under a mile is the Severn Bridge that carries the line into the Forest from the Midland Railway. Berkeley Castle lies just on the left of it, but is buried in the trees. Thornbury Tower, if not Thornbury Castle, further south, is visible when the sun strikes on it. Close to the right of the bridge is an old house that belonged to Sir Walter Raleigh; and, curiously enough, another on the river bank not far above it is said to have been occupied by Sir Francis Drake just before the coming of the Armada. The Duke

of Medina Sidonia, who commanded the Spanish fleet, was ordered to detach a force as soon as he landed, to destroy the Forest of Dean, which was a principal source for timber for the British navy; and it is probable that the Queen's ministers were aware of this and took measures in defence, with which Drake had to do.

Two miles lower than the bridge is the Forest port of Lydney, now chiefly used for shipping coal; and as the ex-Verderer of the Forest resides near it, and he would be able to furnish information of interest to our American visitor, we decided to drive to Lydney to begin.

It was too late to start the same day, however; and Senator Hoar stayed at Upton, where his visit happens to mark the close of what is known as the "open-field" system of tillage; a sort of midway between the full possession of land by freehold, and unrestricted common rights. The area over which he walked, and which for thousands of years has been divided by "meres" and boundary stones, is now to be enclosed, and so will lose its archæological claims to interest. In one corner of it, however, there still remains a fragment of Roman road, with some of the paving stones showing through the grass of the pasture field. The name of this piece of land gives the clue to its history. It is called Sandford; a corruption of Sarn ford, from *sarnu* (pronounced "sarney") *to pave;* and *fford,* a road. These are Celtic Cornish and Welsh words; and it should be noted that the names of the Roman roads in the Island as well as those of the mountains and rivers, are nearly all Celtic, and not Latin or Saxon.*

We made a short delay in the morning, at Gloucester, to give Senator Hoar time to go on board the boat "Great Western" which had just arrived in our docks from Gloucester, Massachusetts, to visit the mother city, after a perilous voyage across the Atlantic by Captain Blackburn single-handed. Senator Hoar having welcomed the captain in his capacity of an old Englishman and a New Englander

* The Whitcombe Roman Villa, four miles east of Upton, stands in a field called Sandals. In Lyson's description of it, written in 1819 it stands as *Sarn*dells. The paved road ran through the dell.

"rolled into one," we set out for Lydney, skirting the bank of one arm of the Severn which here forms an island. It was on this Isle of Alney that Canute and Edmund Ironside fought the single-handed battle that resulted in their dividing England between them.* We pass on to the Island at Westgate Bridge; and a quarter of a mile further leave it by Over Bridge; one of Telford's beautiful works. Just below it the Great Western Railway crosses the river by an iron bridge, the western piers of which rest upon Roman foundations.

One remarkable thing which I believe I forgot to mention to George Hoar as we crossed the Island, is, that the meadows on both sides of the causeway belong to the "Freemen" of the city; and that, go back as far as we may in history, we cannot find any account of the original foundation of this body. But we have this clue to it—that Gloucester was made into a Colony in the reign of Nerva, just before the end of the first century; and in each Roman colony lands were allotted to the soldiers of the legions who had become freemen by reason of having served for twenty-five years. These lands were always on the side of the city nearest the enemy; and the lands we are crossing are on the western side of Glevum, nearest the *Silures,* or South Welsh, who were always the most dangerous enemies the Romans had in Britain. Similarly, at Chester, the freemen's lands are on the west, or enemy's side, by the Dee. In Bath it was the same.

Immediately after passing "Over" Bridge we might turn off, if time permitted, to see Lassington Oak, a tree of giant size and unknown age; but as Emerson says—

> There's not enough for this and that.
> Make thy option which of two!

and we make ours for Lydney. A dozen miles drive, often skirting the right bank of the Severn, brings us to Newnham, a picturesque village opposite a vast bend, or horse-shoe, of the river, and over which we get a beautiful view from the burial ground on the cliff. The water expands like a

* Sharon Turner's "Anglo Saxons," Vol. III., Chap. XV.

lake, beyond which the woods, house-interspersed, stretch away to the blue Cotteswold Hills; the monument to William Tyndale being a landmark on one of them—Nibley Knoll. Just under that monument was fought the last great battle between Barons. This battle of Nibley Knoll, between Lord Berkeley and Lord Lisle, left the latter dead on the field, at night, with a thousand of the men of the two armies; and made Lord Berkeley undisputed master of the estates whose name he bore.

We now leave the river, and turn inland; and in a short time we have entered the Forest of Dean proper; that is, the lands that belong to the Crown. Their area may be roughly set down as fifteen miles by ten; but in the time of the Conqueror, and for many years after, it was much larger; extending from Ross on the north, to Gloucester on the east, and thence thirty miles to Chepstow on the south-west. That is, it filled the triangle formed by the Severn and the Wye between these towns. It is doubtless due to this circumstance of its being so completely cut off from the rest of the country by these rivers that it has preserved more remarkably than any other Forest, the characteristics and customs of ancient British life, to which we shall presently refer; for their isolation has kept the Dean Foresters to this hour a race apart.

Sir James Campbell, who was for between thirty and forty years the chief "Verderer," or principal government officer of the Forest, lives near Lydney. He received us with great kindness, and gave us statistics of the rate of growth of the oak, both with and without transplantation. Part of them are published in an official report on the Forest (A 12808. 6/1884. Wt. 3276. Eyre & Spottiswoode, London) and part are in manuscript with which Senator Hoar has been presented. Briefly, the chief points are these:

In 1784 or thereabouts acorns were planted in "Acorn Patch Enclosure" in the Forest; and in 1800 trees marked A and B were taken from this place and planted opposite the "Speech House." Two, marked D and F, were drawn out of Acorn Patch in 1807 and planted near the Speech House fence. Another, marked N, was planted in 1807,

five and one-half feet high, in the Speech House grounds, next the road; and L, M, N, X, have remained untransplanted in the Acorn Patch.

The dimensions were (circumference, six feet from the ground), in inches—

	A	B	D	F	L	M	N	X
In 1814, Oct. 5,	14¾	14	11	9½	15⅝	18½	13	24½
1824, Oct. 20,	29½	28¾	25⅜	22⅛	22½	23¾	30⅛	32⅛
1844, Oct. 5,	58½	58	45	46	35	34½	57	44½
1864, Oct. 1,	73½	71	59½	67¾	46½	44	73¼	56

Another experiment tried by Sir James Campbell himself gave the following results:

Experiment begun in 1861 to test the value, if any, of merely lifting and replanting oak trees in the same holes without change of soil, situation, or giving increased space; as compared with the experiment already detailed, which was begun in 1800.

In 1861, twelve oak trees of about 25 years' growth, which had been self-sown (dropping from old trees afterwards cut down) in a thick plantation, were selected, all within gunshot of each other, and circumferences measured at five feet from the ground. Of these, six were taken up and immediately replanted in the same holes. The other six were not interfered with at all.

Aggregate admeasurement of six dug up and replanted. Marked in *white* paint 1, 2, 3, &c.	Aggregate admeasurement of six not interfered with. Marked in *red* paint 1, 2, 3, &c.	
1861, 24½ inches.	27 inches	(*i. e.*, 2½ inches more than the transplanted ones, at starting.)
1866, 37¾ "	46½ "	(*i. e.*, 10⅞ inches more than the transplanted ones at starting.)
1886, 118¼ "	118⅝ "	(*i. e.*, the transplanted ones had now *regained* 10½ inches.)
1888, 125½ "	123½ "	(The transplanted trees in '88 had outgrown the others by 2 ins.)
1890, 133⅞ "	128 "	(The transplanted trees in '90 had outgrown the others by 5⅝ ins.)
1892, 141 "	131¼ "	(The transplanted trees in '92 had outgrown the others by 9¾ ins.)

Thus proving that merely transplanting is beneficial to oaks; the benefit, however, being greater when the soil is changed and more air given.*

* The Earl of Ducie, who has had very large experience as an arboriculturist, does *not* hold the view that oaks are benefited by transplanting, if the acorns are sown *in good soil.* In the case of trees that show little or no

From Lydney a drive of a few miles through pleasant ups and downs of woodland and field, brings us to Whitemead Park, the official residence of the Verderer, Philip Baylis. The title "Verderer" is Norman, indicating the administration of all that relates to the "Vert" or "Greenery" of the Forest; that is, of the timber, the enclosures, the roads, and the surface generally. The Verderer's Court is held at the "Speech House," to which we shall presently come: but the Forest of Dean is also a mineral district, and the Miners have a separate Court of their own. That some of their customs go back to a very remote antiquity we may well believe when we find the scale on which the Romans worked iron in the Forest; a scale so great that with their imperfect method of smelting with Catalan furnaces, etc., so much metal was left in the Roman cinder that it has been sought after all the way down to within the present generation as a source of profit; and in the time of Edward I., one-fourth of the king's revenue from this Forest was derived from the remelted Roman refuse.

I have a beautiful Denarius of Hadrian which was found in the old Roman portion of the Lydney-Park Iron Mine in 1854, with a number of other silver coins, some of them earlier in date; but when we speak of "mines," the very ancient ones in the Forest were rather deep quarries than what would now be termed mines. As we drive along we now and then notice near the roadside, nearly hidden by the dense foliage of the bushes, long dark hollows, which are locally known as "*scowles,*" another Celtic word meaning gorges or hollows; something like ghyll in the Lake District, "Dungeon Ghyll," and so on. These were Roman and British Hematite mines. If we had been schoolboys I would have taken Senator Hoar down into a scowl and we should both have come back with our clothes spoiled, and our arms full of the splendid hartstongue ferns that cover the sides and edges of the ravine. But they are dangerous places

satisfactory progress after four years, but are only just able to keep alive, he cuts them down to the root. In the next season 80 per cent. of them send up shoots from two to three feet high, and at once start off on their life's mission.

for any but miners *or* schoolboys; and I shrank from encouraging an enthusiastic American to risk being killed in a Roman pit, even with the ideal advantage of afterwards being buried with his own ancestors in England! So I said but little about them.

The Miners' Court is presided over by another government officer, called the "Gaveller"; from a Celtic word which means *holding;* as in the Kentish custom of "Gavelkind."* These courts are held in "Saint Briavels" (pronounced "Brevels") Castle: a quaint old building of the thirteenth century, on the western edge of the Forest, where it was placed to keep the Welsh in check. It looks down on a beautiful reach of the river Wye at Bigswear; and it was just on this edge that Wordsworth stood in 1798, when he thought out his "Lines composed a few miles above Tintern Abbey," etc.

> Five years have passed; five summers, with the length
> Of five long winters; and again I hear
> These waters rolling from their mountain springs
> With a soft inland murmur. Once again
> Do I behold these steep and lofty cliffs.

Senator Hoar will recall the scene from the railway below: the

> "Plots of cottage ground" that "lose themselves
> 'Mid groves and copses";

and he will say how exactly the words describe

> These hedge-rows; hardly hedge-rows; little lines
> Of sportive wood run wild,

for they cover yards in width in some places, as he will remember my pointing out to him. The castle is placed on the outside of the Forest and close on the Wye, to guard what was seven centuries ago the frontier of Wales; and the late William Philip Price (Commissioner of Railways and for many years member of Parliament for Gloucester) told me that when he was a boy the Welsh

* I suspect "Gaffer," the English equivalent of "Boss," may be the same root: *i. e.,* the *taker* or contractor.

tongue was still spoken at Landogo, the next village down the river, midway between Bigswear and Tintern.

Philip Baylis showed us some of the old parchments connected with the Mine Court; one document especially precious being a copy of the "Book of Denys," made in the time of Edward III. It sets forth the ancient customs which formed the laws of the miners. At this point the Verderer had to settle some matter of the instant, but he put us under the care of a young man who acted as our guide to one of the ancient and giant oaks of the Forest, on the "Church Hill" enclosure, about three-quarters of a mile up the hill above the Park. Nicholls ("History of the Forest of Dean," page 20) thinks the name Church Hill comes from the setting apart of some land here for the Convent of *Grace Dieu* to pay for masses for the souls of Richard II., his ancestors and successors.

It was a steep climb; and the evening twilight was coming on apace as we followed the little track to the spot where the old oak rises high above the general level of the wood, reminding one of Rinaldo's magical myrtle, in "Jerusalem Delivered":

> O'er pine, and palm, and cypress it ascends:
> And towering thus all other trees above
> Looks like the elected queen and genius of the grove!

Only that for an *oak* of similar standing we must say "king" instead of "queen"; emblem as it is of iron strength and endurance.

It is not so much the girth of the tree as its whole bearing that impresses a beholder; and I do not think either of us will forget its effect in the gloom and silence and mystery of the gathering night.

Resisting a kindly pressure to stay the night at Whitemead, that we might keep to our programme of sleeping at the Speech House, we started on the last portion of the long day's drive. The road from Parkend, after we have climbed a considerable hill, keeps mostly to the level of a high ridge. It is broad and smooth; and the moonlight and its accompanying black shadows on the trees made the

journey one of great beauty; while the mountain air lessened the sense of fatigue that would otherwise have pressed heavily on us after so long a day amid such novel surroundings. The only thing to disturb the solitude is the clank of machinery, and the lurid lights, as we pass a colliery; and then a mile or two more with but the sound of our own wheels and the rhythm of the horses' feet, and we suddenly draw up at an hotel in the midst of the Forest, its quiet well-lighted interior inviting us through the doorway, left open to the cool summer night air. We are at the Speech House. We had bespoken our rooms by wire in the morning: Senator Hoar had a *chambre d'honneur,* with a gigantic carved four-post bed that reminded him of the great bed of Ware. His room like my "No. 5," looked out over magnificent bays of woodland to the north. The Speech House is six hundred feet above the sea, and the mountain breeze coming through the wide open window, with this wonderful prospect of oak and beech and holly in the moonlight,—the distance veiled, but scarcely veiled, by the mist, suggest a poem untranslatable in words, and incommunicable except to those who have passed under the same spell. We speak of a light that makes darkness visible; and similarly there are sounds that deepen the long intervals of silence with which they alternate. One or two vehicles driving past; now and then the far-off call of owls answering one another in the woods—one of the sweetest sounds in nature—the varying cadence carrying with it a sense of boundlessness and infinite distance; and with it we fall asleep.

If there is anything more beautiful than a moonlight summer night in the heart of the Forest of Dean, it is its transformation into a summer morning, with the sparkle of dew on the grass, and the sunrise on the trees; with the music of birds, and the freshness that gives all these their charm.

As soon as we are dressed we take a stroll out among the trees. In whichever direction we turn we are struck by the abundance of hollies. I believe there are some three thousand full grown specimens within a radius of a

mile of the Speech House. This may be due to the spot having been from time immemorial the central and most important place in the Forest. The roads that lead to it still show the Roman paving-stones in many places, as Senator Hoar can bear witness; and the central point of a British Forest before the Roman time would be occupied by a sacred oak. The Forest into which Julius Cæsar pursued the Britons to their stronghold, was Anderida, that is, the Holy Oak; from *dar,* oak (Sanskrit, daru, a tree), and *da,* good. It is worth remarking that this idea survives in the personal name, Holyoak; for who ever heard of "Holyelm," or "Holyash," or a similar form compounded of the adjective and the name of any other tree than the oak? If there is an exception it is in the name of the *holly.* The Cornish Celtic word for holly was Celyn, from Celli (or Kelli), a grove; literally a *grove-one;* so that the holly was probably planted as a grove or screen round the sacred oak. Such a planting of a holly grove in the central spot of the Forest in the Druid time, would account for these trees being now so much more numerous round the Speech House than they are in any other part of the woods. The Saxon name is merely the word *holy* with the vowel shortened, as in *holi*day; and that the tree really was regarded as holy is shown by the custom in the Forest Mine Court of taking the oath on a stick of holly held in the hand. This custom survived down to our own times; for Kedgwin H. Fryer, the late Town Clerk of Gloucester, told me he had often seen a miner sworn in the Court, touching the Bible with the holly stick! The men always kept their caps on when giving evidence to show they were "Free miners."

The oaks, marked A. B., of whose growth statistics have already been given, stand on the side of the Newnham road opposite the Speech House. The Verderer is carrying on the annual record of their measurements.

We return to the house by the door on the west; the one at which we arrived last evening. It was then too dark to observe that the stone above it, of which I took a careful sketch several years ago, is crumbling from the effects of

weather, after having withstood them perfectly for two centuries. The crown on it is scarcely recognizable; and the lettering has all disappeared except part of the R.

We breakfast in the quaint old Court room. Before us is the railed-off dais, at the end, where the Verderer and his assistants sit to administer the law. On the wall behind them are the antlers of a dozen stags; reminders of the time, about the middle of the present century, when the herds of deer were destroyed on account of the continual poaching to which they gave occasion. Many of the cases that come before the Court now are of simple trespass.

This quaint old room, with its great oak beam overhead, and its kitchen grate wide enough to roast a deer—this strange blending of an hotel dining-room and a Court of Justice, has nevertheless a link with the far distant past more wonderful than anything that has come down to us in the ruins of Greece or Rome.

Look at the simple card that notifies the dates of holding the Verderer's Court. Here is an old one which the Verderer, Philip Baylis, has kindly sent to Senator Hoar in response to his request for a copy.

V. R.
Her Majesty's Forest of Dean,
Gloucestershire.
VERDERERS' COURT.
Verderers:
Charles Bathurst, Esq. Sir Thomas H.
Crawley-Boevey, Bart.
Maynard Willoughby Colchester-Wemyss, Esq.
Russell James Kerr, Esq.
Deputy-Surveyor:
Philip Baylis, Esq.
Steward:
James Wintle.
——NOTICE.——

The VERDERERS of Her Majesty's Forest of Dean hereby give Notice that the COURT of ATTACHMENT of our Sovereign Lady the Queen for the said Forest will be holden by adjournment, at the Speech House, in the said Forest, at half-past Two o'clock, in the afternoon, on the following days during the year 1897, viz.:

Wednesday, the 27th January;
Monday, the 8th March;
Saturday, the 17th April;
Thursday, the 27th May;
Tuesday, the 6th July;
Monday, the 16th August;
Friday, the 24th September;
Wednesday, the 3rd November;
Monday, the 13th December.

James Wintle,
Steward.

Newnham, 1st January, 1897.

Many years ago I stood in this Court Room examining a similar notice, puzzled at the absence of any system or order in the times appointed for the sittings, which did not come once a month, or every six weeks; and did not even fall twice in succession on the same day of the week. Turning to the landlord of the hotel I asked, "What is the rule for holding the Court? *When* is it held?" "*Every forty days at twelve o'clock at noon*" was the reply. Reflection showed that so strange a periodicity related to no notation of time with which we are now in touch; it must belong to a system that has passed away; but what could this be?

We are reminded by the date of the building we are in (1680), that the room itself cannot have been used for much more than two centuries for holding the Courts.

But there was a Verderer's Court held in several Forests besides this Forest of Dean, long before the Stuart days. The office itself is mentioned in Canute's Forest Charter, dating back nearly nine hundred years; and as at that period about a third of England was covered with Forests, their influence must have been very powerful; and local laws and customs in them must have been far too firmly established for such a man as Canute to alter them. He could only have confirmed what he found; much as he confirmed the laws of nature as they affected the tides at Southampton!

The next Forest Charter of national importance after Canute's, is that of Henry III., in 1225. It is clear that

he, again, made no material change in the old order of things; and in recapitulating the old order of the Forest Courts, he ordains that the Court of Attachment (called in Dean Forest the Court of the Speech) was to be held *every forty days.* This Court was one of first instance, simply for the hearing of evidence and getting up the cases for the "Swainmote,"* which came *three times a year.* The Swains were free men; and at their *mote* evidence was required from *three* witnesses in each case, on which the Verderer and other officers of the king passed sentence in accordance with the laws laid down in this Charter. From this Swainmote there was a final appeal to the High Court of the Judges in Eyre (Eyre, from "errer" to wander, being the Norman French for Itinerant, or, on Circuit) which was held *once in three years.*

The forty-day court was common to all the ancient forests of Britain; and that they go back to *before* the time of Henry III. is clear from the following extracts from Coke's Fourth Institute, for which I am indebted to the kindness of James G. Wood, of Lincoln's Inn.

> Cap. LXXIII.
>
> Of the Forests and the Jurisdiction of the Courts
> [p 289] of the Forest.
>
> * * * * * * *
>
> And now let us set down the Courts of the Forests—Within *every* Forest there are these Courts
>
> 1. The Court of the Attachments or the Woodmote Court. This is to be kept before the Verderors every forty days throughout the year —and thereupon it is called the Forty-day Court—At this Court the Foresters bring in the Attachments de viridi et venalione [&c &c]
>
> * * * * * * *

* That the Forest Charter of Hen. III. did not establish these courts is proved from a passage in Manwood, cap. 8, which runs thus: "And the said Swainmotes shal not be kept but within the counties in the which they have been used to be kept."

2. The Court of regard or Survey of days is holden every third year [&c &c]

* * * * * * *

3. The Court of Swainmote is to be holden before the Verderors as judges by the Steward of the Swainmote thrice in every year [&c]

* * * * * * *

4. — — — The Court of the Justice Seat holden before the Chief Justice of the Forest — — aptly called Justice in eire — — — and this Court of the Justice Seat cannot be kept oftener than every third year.

* * * * * * *

[319] *For the antiquity of such Forests within England as we have treated of the best and surest argument thereof is that the Forests in England (being in number 69) except the New Forest in Hampshire erected by William the Conqueror as a conquerer, and Hampton Court Forest by Hy 3, by authority of Parliament, are so ancient as no record or history doth make any mention of any of their Erections or beginnings.*

Here then we have clear evidence that nearly seven hundred years ago the Verderer's Court was being held at periods of time that bore no relation to any division of the year known to the Normans or Plantagenets, or, before them, to the Saxons, or even, still earlier, to the Romans. We are, therefore, driven back to the period before the Roman invasion in Britain, and when the Forest legislation was, as Cæsar found it, in the hands of the Druids. In his brief and vivid account of these people he tells us that they used the Greek alphabet; and as he also says they were very proficient in astronomy, it seems clear that they had their astronomy from the same source as their literature. Their astronomy involved of necessity their notation of time. And the Greeks, in turn, owed their astronomy to the Egyptians, with whom the year was reckoned as of three hundred and sixty days; and this three hundred and sixty-day year

gives us the clue to the forty-day period for holding the Forest Courts in Ancient Britain.

We cannot fail to be struck, as we examine the old Forest customs, with the constant use of the *number three,* as a sacred or "lucky" number, on every possible occasion. We have just seen the role it plays in the Mine Court, with its *three* presiding officials, its jury of multiples of *three* (twelve, twenty-four, forty-eight); its holly stick oath sworn by *three* witnesses. We have noticed the Swainmote Court, also requiring *three* witnesses, held *three* times a year, and subordinate to the Court of Eyre held once in *three* years; to which should be added the perambulation of the Forest bounds at the same triennial visit in Eyre, when the king's officers were accompanied by nine foresters in fee (*three threes*) and twenty-four jurors (*eight threes*).

To go fully into the role of the number three in British traditions would require a profound study; but it may be useful briefly to note its influence on the Bardic poetry—the Triads, where the subjects are all grouped in threes. Nor was this predilection confined to the Island. We find it affecting the earliest history of Rome itself, with its *nine* gods ("By the nine gods he swore") and the *nine* books which the Sibyl destroyed by *threes,* till the last *three* were saved. Then we have the evidence in the name *nundina** for a market, that the week was originally a cycle not of seven, but of *nine* days; and our own saying that a given thing is a *"nine days wonder"* is undoubtedly a survival from the period when the nine days made a week,† for such

* The Romans meant by *nundinæ* periods that were really of eight days; but they made them nine by counting in the one *from* which they started. So accustomed were they to this method of notation that the priests who had the control of the calendar, upset Julius Cæsar's plan for intercalating a day once in *four* years ("Bissextile" by insisting that the interval intended was *three* years! Augustus was obliged to rectify this by dropping the overplus day it occasioned.

It is this Roman custom of *inclusive* reckoning which has led to the French calling a week *huit jours,* and a fortnight, *une quinzaine.*

† The word week comes from *wika* (= Norsk *vika*) to bend or *turn.* The idea connected with it was no doubt that of the moon's turning from one of its quarters to the next. I can remember when some of the people in "the Island" in Gloucester always made a point of *turning* any coins they had in

a phrase expresses a round number or unit of time; not nine *separate* days.

Shakespeare had been struck with the relationship of the *nine* day week, alluded to in the proverb, to the more modern one of seven days, as is shown by his very clever juxtaposition of the two in "As You Like It." In Act III., Scene 2, he makes Celia say to Rosalind

"But didst thou hear *without wondering* how thy name should be hanged and carved upon these trees?"

And Rosalind replies

"I was *seven* of the *nine days out of the wonder* before you came"—*etc.*

Gloucester, down till the Norman time, and after, was the great manufactory of the iron brought from the Forest of Dean. The metal was brought up the Severn by barges, to the quay which stood at the road running straight down from Longsmith Street (in which Charles Hoar's house stands), and buried under all this street we find the cinder and slag of the Roman forges. In Domesday Book (which was ordered to be drawn up at a Parliament in Gloucester in 1083) it states that the City had paid to the King (*i. e.,* Edward the Confessor) ten *dicres* of iron yearly. This is very remarkable, for a dicre was three dozen rods or bars; so that the whole tribute was three hundred and sixty bars, or *one bar per day for the Druid year of three hundred and sixty days.**

their pockets when it was new moon and repeating a sort of invocation to the moon! How or when the nine day week was exchanged by western nations for the seven day one, we do not know; but it is likely that it may have been brought about by the Phœnicians and Jews, who regarded the number *seven* as the Druids regarded *three*—as something especially sacred. They had much of the commerce of Southern Europe in their hands, and, therefore, a certain power in controlling the markets, which it would be a convenience to Jews to *prevent* falling on the sabbath day. The circumstance that the lunar month fitted in with four weeks of seven days no doubt made it easier to effect the change from *nundinæ*.

* For more than a century after Julius Cæsar had altered the year to three hundred and sixty-five days, the Roman soldiers were still paid at the ancient rate of three hundred and sixty days only, losing the rest as "*terminalia*," or days not counted as belonging to the year! The proof of this is that in the time of Domitian a soldier's *year's* pay divided by three hundren and sixty gives an even number of *ases*.

And now we come back to the Verderer's Court at the Speech House with a clear reason for its being held *"every forty days at twelve o'clock at noon."*

Forty days was the *ninth* of the Druid year of three hundred and sixty, and was a period of five weeks of eight days each, but which according to the ancient method of counting were called *"nine-days."* And the reason the Court sits "at Twelve o'clock at noon" is because the Druid day began at noon. Even now, within ten miles of where I write, the children on Minchinhampton Common, on the Cotteswold Hills, keep up *"old May Day,"* which was the opening of the Druid year, though they are ignorant of this. Boys and girls arm themselves on that day with boughs of the beech, and go through certain games with them; but exactly as the clock strikes *twelve* they throw them away, under pain of being stigmatized as *"May fools!"*

Well has Oliver Wendell Holmes put it, that *"All* things are *in all* things!" Even this commonplace list of Court days in the Forest of Dean becomes a beautiful poem when the light of such a past shines on it; just as the veriest dust of the Krakatoan volcano evolves itself into every color of the rainbow when it rises into the sunset sky.

Since writing this paper I find that Philip Baylis, the Verderer of the Forest of Dean, has kindly sent three or four dozen of young oak trees from the Government plantations, to Washington, in order that they may be planted there and in some other places in the United States, to begin the century with. The State Department of Agriculture has arranged for the planting of these oaks, and the periodical record of their measurements, so that a valuable basis will be established for an experiment that may be carried on for a century, or more; and we, the archæologists of the nineteenth century, shall have wiped away the stigma implied in the old Aberdeen Baillie's remark, that as *Posteerity* had never done anything for us, we ought not to do anything for *posteerity!*

The Earl of Ducie has sent, accompanying these Forest of Dean oaks, four small plants, seedlings from the great Chestnut Tree on his Estate at Tortworth; the largest and

oldest of its sort in Great Britain. It measures forty-nine feet round the trunk.

Leaving the Speech House for Coleford and Newland we descend a steep hill for half a mile, and crossing the rail at the Station we begin to ascend the opposite rise through the woods. As the carriage climbs slowly up we keep on the lookout for the margin-stones of the Roman paving which here and there show through the modern metaled surface—pieces fifteen to twenty inches long by about five inches in thickness, and set so deep in the ground that eighteen hundred years' wear has never moved them. They are buttressed on the outer edge by similar blocks set four or five inches lower, and themselves forming one side of the solidly paved water-way or gutter which was constructed as part of every such road on a steep gradient, to secure it from abrasion by flood or sudden rush from heavy rainfall. There are many excellent examples of this in the Forest of Dean. We are on the watch, however, for some part where the "*margines*" remain on *both* sides of the way. At last we come upon such a place, and alighting from the carriage we strain the tape measure across at two or three points. The mean we find to be thirteen feet and seven inches. As the Roman foot was just over three per cent. less than ours, this means that the Romans built the road here for a fourteen-foot way. So far as I have examined their roads they were always constructed to certain standard widths—seven feet, nine feet, eleven feet, thirteen feet, fourteen feet, or fifteen feet.

It is not too much to say that most of the main roads in England are Roman; but the very continuity of their use has caused this to be overlooked. All the *old* roads in the Forest of Dean have been pronounced by the Ordnance Surveyors, after close examination, to bear evidences of Roman paving, although for some centuries since then wheel carriages went out of use here!

There is a vivid description in Statius of the making of an imperial-road through such another Forest (if not indeed this very one!) especially worth recalling here, because it was written at very nearly the period of the building of

this track over which we are journeying; *i. e.*, near the end of the first century.

The poet stands on a hill from which he can see the effect of the united work of the army of men who are engaged in the construction: perhaps a hundred thousand forced laborers, under the control of the legionary soldiers who act as the engineers. He makes us see and hear with him the tens of thousands of stone cutters and the ring of their tools squaring the "setts"; and then one platoon after another stepping forward and laying down its row of stones followed by rank after rank of men with the paviours' rammers, which rise and fall at the sweep of the band-master's rods, keeping time in a stately music as they advance; the continuous falling and crashing of the trees as other thousands of hands ply the axes along the lines, that creep, slowly, but visibly, on through the Forest that no foot had ever trodden—the thud of the multitudinous machines driving the piles in the marshy spaces; the whole innumerable sounds falling on the ear like the roaring of a great and vast sea.

The language Statius uses is more simple than mine; but this is substantially the picture he gives: and I know of nothing that so impresses on the imagination the thunder of the power of the Roman Empire as this creation in the wilderness, in one day, of an iron way that shall last for all time.

We are here in the sweet silence of a summer morning, eighteen hundred years after such a scene, and able mentally to catch some glimpse of it; some echo of the storm that has left behind it so ineffaceable a mark.

"I intended to ask you just now whether the man you spoke to in the road was a typical native of the district?" said Senator Hoar. "He was dark and swarthy, with very black hair and piercing eyes; not at all like the majority of people we see in Gloucester for instance." "Yes, he is a typical Forester"; exactly such a man as Tacitus describes his Silurian ancestors; so Spanish in appearance that he tries to account for it by remarking that "*that part of Britain lies over against Spain*"; as if it was such a short run across the Bay of Biscay to the upper end of the Bristol

Channel that nothing would be more natural than for Spaniards to sail over here with their wives and families and become Silures!

These Western Britons, both here in the Forest and in Cornwall certainly remind one of Spaniards. The type is of an older Celtic than that of the present Welsh people proper, as some evidences in the language also point to the occupation being an older one. With respect to this particular district of the Forest and the East of Monmouthshire, one more element must not be left out of the account: and that is, that Caerleon was founded by the second legion being removed to it from Gloucester about the time this road was made; and that it remained for three hundred years the headquarters of that legion, which was a Spanish one raised in the time of Augustus. Forty years ago I remember being at Caerleon (two and one half miles from Newport), when I met the children of the village coming out of school. It was hard to believe they were not Spanish or Italian!

At all events this part of Britain lies over against Boston; and Americans can cross over and see Caerleon for themselves more easily than the people could, of whom Tacitus wrote.

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